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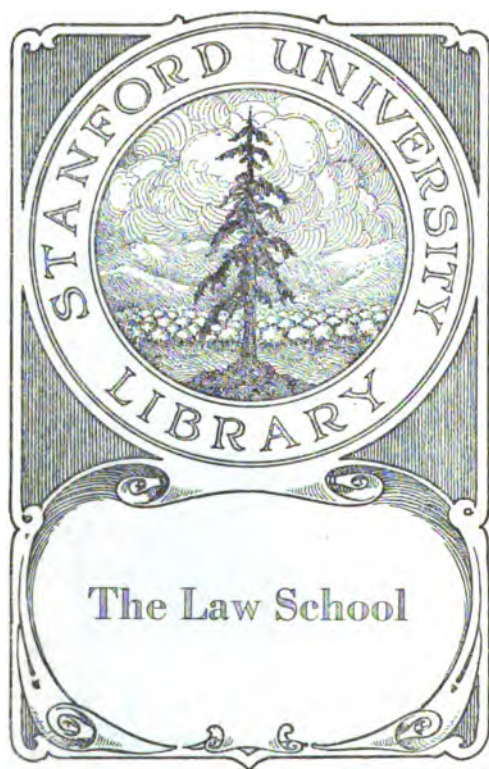
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New York Times

LOUIS HINES
Counsellor at Law
42 Broadway
New York City



LAWS
OF THE
STATE OF NEW YORK

PASSED AT THE
ONE HUNDRED AND FORTY-FIFTH SESSION
OF THE
LEGISLATURE

BEGUN JANUARY FOURTH, 1922, AND ENDED MARCH
SEVENTEENTH, 1922

AT THE CITY OF ALBANY
AND ALSO OTHER MATTERS REQUIRED BY LAW TO
BE PUBLISHED WITH THE SESSION LAWS

VOLS. I-II



ALBANY
J. B. LYON COMPANY, STATE PRINTERS
1922

L. 1443
APR 30 1930

YRABU OORHATB

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CERTIFICATE

STATE OF NEW YORK

OFFICE OF THE SECRETARY OF STATE

ALBANY, *July 6, 1922*

Pursuant to the directions of chapter 37, laws of 1909, entitled legislative law, I hereby certify that the following volume of the laws of this state was printed under my direction.

JOHN J. LYONS

Secretary of State

In this volume, every act which received the assent of a majority of all the members of the legislature, three-fifths of all the members elected to either house thereof being present, pursuant to section 25 of article 3 of the constitution of this state, is designated under its title by the words "passed, three-fifths being present." And every act which received the assent of a majority of all the members elected to each branch of the legislature, pursuant to section 15 of article 3 of the constitution of this state, is designated under its title by the words "passed, a majority being present." And every act which received the assent of two-thirds of all the members elected to each branch of the legislature, pursuant to section 20 of article 3 of the constitution of this state, is designated under its title by the words "passed by a two-thirds vote." [See legislative law, laws of 1909, chapter 37, § 44.]

PUBLICATION OF SESSION LAWS

(Legislative law, L. 1909, ch. 37.)

§ 45. Publication of session laws; contents of published volumes of session laws. The secretary of state shall annually cause the session laws to be published as soon as possible after the adjournment of the legislature. Such volumes shall contain:

1. A statement of the names and residences of the governor, lieutenant-governor, senators and members of assembly, the presiding officers and clerks of both houses in office during each session.

2. The laws, and concurrent resolutions proposing amendments to the constitution of the state and concurrent resolutions proposing or ratifying amendments to the constitution of the United States, passed at each session.

3. Amendments to the state constitution approved and ratified by the people at the last preceding general election.

4. Tables showing the laws and parts thereof amended or repealed by such laws.

5. Indexes of the laws and concurrent resolutions contained in such volumes.

6. Such other matters as are required by law to be published in such volumes.

Such laws, concurrent resolutions, tables, indexes and other matters so required to be published shall be prepared for publication in the state library under the supervision of the director thereof. Side notes or section headings shall be inserted indicating the subject-matter of the several sections of the laws and concurrent resolutions. Suitable references to existing general or consolidated laws, codes, or special or local laws may be made in foot notes or otherwise. The said director may submit to the state printing board changes in the style of execution as to type and paper, which, when approved by such board, shall be the style of execution to be thereafter followed in the publication of

session laws. All contracts hereafter entered into for the printing of session laws shall be for terms of two years, and shall provide for the printing thereof in the style as so approved, and with the notes and references and in the form, and containing the matter, herein authorized or required. Each volume printed for the state shall contain the certificate of the secretary of state that it was printed under his direction. (As amended by L. 1911, ch. 272; L. 1921, ch. 13.)

List of Officers and Members of the Legislature

1922

NAMES AND RESIDENCES

OF THE GOVERNOR, LIEUTENANT-GOVERNOR, SENATORS AND MEMBERS OF ASSEMBLY,
THE PRESIDING OFFICERS AND CLERKS OF BOTH HOUSES OF THE LEGISLATURE OF
THE STATE OF NEW YORK AT THE TIME OF THE PASSAGE OF THE LAWS CONTAINED
IN THIS VOLUME.

GOVERNOR

NATHAN L. MILLER.....¹ALBANY, ALBANY COUNTY

LIEUTENANT-GOVERNOR

JEREMIAH WOOD.....LYNBBROOK, NASSAU COUNTY

CLERK OF THE SENATE

ERNEST A. FAY.....POTSDAM, ST. LAWRENCE COUNTY

SENATORS

District	NAME	County	Address
1	George L. Thompson.....	Suffolk.....	Kings Park
2	John L. Karle.....	Kings.....	Glendale
3	Peter J. McGarry.....	Queens.....	Long Island City
4	Maxwell S. Harris.....	Kings.....	Brooklyn
5	Daniel F. Farrell.....	Kings.....	Brooklyn
6	William T. Simpson.....	Kings.....	Brooklyn
7	Charles C. Lockwood.....	Kings.....	Brooklyn
8	Alvah W. Burlingame, Jr.....	Kings.....	Brooklyn
9	George M. Reischmann ¹	Kings.....	Brooklyn
10	Jeremiah F. Twomey.....	Kings.....	Brooklyn
11	Abraham L. Katlin.....	Kings.....	Brooklyn
12	James J. Walker.....	New York.....	New York city
13	John J. Boylan.....	New York.....	New York city
14	Bernard Downing.....	New York.....	New York city
15	Nathan Straus, Jr.....	New York.....	New York city
16	Thomas I. Sheridan ²	New York.....	New York city
17	Schuyler M. Meyer.....	New York.....	New York city
18	Salvatore A. Cotillo.....	New York.....	New York city
19	William Duggan.....	New York.....	New York city
20	Ward V. Tolbert.....	New York.....	New York city
21	Henry G. Schackno.....	Bronx.....	New York city

¹ Official residence.

² Died Feb. 7, 1922.

³ Elected Nov. 8, 1921, vice Martin G. McCue who resigned June 13, 1921.

LIST OF OFFICERS

SENATORS—(Concluded)

District	NAME	County	Address
22	Edmund Seidel.....	Bronx.....	New York city
23	John J. Dunnigan ⁴	Bronx.....	New York city
24	C. Ernest Smith.....	Richmond.....	Stapleton
25	George T. Burling.....	Westchester.....	White Plains
26	Holland S. Duell.....	Westchester.....	Yonkers
27	Caleb H. Baumes.....	Orange.....	Newburg
28	James E. Townner.....	Putnam.....	Towners
29	Charles W. Walton.....	Ulster.....	Kingston
30	Frank L. Wiswall.....	Albany.....	Watervliet
31	Frederick E. Draper.....	Rensselaer.....	Troy
32	Frederick W. Kavanaugh.....	Saratoga.....	Waterford
33	Mortimer Y. Ferris.....	Essex.....	Ticonderoga
34	Warren T. Thayer.....	Franklin.....	Chateaugay
35	Theodore Douglas Robinson..	Herkimer.....	Mohawk
36	Frederick M. Davenport.....	Oneida.....	Clinton
37	Fred B. Pitcher.....	Jefferson.....	Watertown
38	George R. Fearon.....	Onondaga.....	Syracuse
39	Allen J. Bloomfield.....	Otsego.....	Richfield Springs
40	Clayton R. Lusk ⁵	Cortland.....	Cortland
41	Seymour Lowman.....	Chemung.....	Elmira
42	Charles J. Hewitt.....	Cayuga.....	Locke
43	William A. Carson.....	Yates.....	Rushville
44	John Knight.....	Wyoming.....	Arcade
45	James L. Whitley.....	Monroe.....	Rochester
46	Thomas E. A. Dick ⁶	Monroe.....	Rochester
47	William W. Campbell.....	Niagara.....	Lockport
48	Parton Swift.....	Erie.....	Buffalo
49	William E. Martin.....	Erie.....	Buffalo
50	Leonard W. H. Gibbs.....	Erie.....	Buffalo
51	D. H. Ames.....	Cattaraugus.....	Franklinville

⁴ Vice George H. Taylor, originally seated on the face of the returns. A recount of the vote showed a plurality for Dunnigan, who was accordingly seated by resolution of the senate Feb. 16, 1921.

⁵ Temporary president.

⁶ Elected Nov. 8, 1921, vice John B. Mullan who resigned July 28, 1921.

LIST OF OFFICERS

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SPEAKER OF THE ASSEMBLY

H. EDMUND MACHOLD.....ELLISBURG, JEFFERSON COUNTY

CLERK OF THE ASSEMBLY

FRED W. HAMMOND.....SYRACUSE, ONONDAGA COUNTY

MEMBERS OF ASSEMBLY

District	NAME	County	Address
1	Edgar C. Campbell.....	Albany.....	Albany
2	John T. Merrigan.....	Albany.....	Albany
3	James M. Gaffers.....	Albany.....	Cohoes, R. F. D.
	William Duke, Jr.....	Allegany.....	Wellsville
1	Nicholas J. Eberhard.....	Bronx.....	New York city
2	Lester W. Patterson.....	Bronx.....	New York city
3	Benjamin Antin.....	Bronx.....	New York city
4	Louis A. Schoffel.....	Bronx.....	New York city
5	William Lyman.....	Bronx.....	New York city
6	Thomas J. McDonald.....	Bronx.....	New York city
7	Joseph V. McKee.....	Bronx.....	New York city
8	Edward J. Walsh.....	Bronx.....	New York city
1	Edmund B. Jenks.....	Broome.....	Whitney Point
2	Forman E. Whitecomb.....	Broome.....	Union
	Leigh G. Kirkland.....	Cattaraugus.....	Randolph
	L. Ford Hager.....	Cayuga.....	Victory, R. F. D., Red Creek
1	Judson S. Wright.....	Chautauqua.....	Falconer
2	Joseph A. McGinnies.....	Chautauqua.....	Ripley
	John J. Richford.....	Chemung.....	Elmira
	Charles L. Banks.....	Chenango.....	New Berlin
	Charles M. Harrington.....	Clinton.....	Plattsburg
	Roscoe C. Waterbury.....	Columbia.....	Kinderhook
	Irving F. Rice.....	Cortland.....	Cortland
	Lincoln R. Long.....	Delaware.....	New Kingston
1	J. Griswold Webb.....	Dutchess.....	Clinton Corners
2	John M. Hackett.....	Dutchess.....	Poughkeepsie
1	William J. Hickey.....	Erie.....	Buffalo
2	John W. Slacer.....	Erie.....	Buffalo
3	August Seelbach.....	Erie.....	Buffalo
4	Andrew T. Beasley.....	Erie.....	Buffalo
5	Alexander A. Patrzykowski.....	Erie.....	Buffalo
6	George H. Rowe.....	Erie.....	Buffalo
7	Herbert A. Zimmerman.....	Erie.....	Buffalo
8	Nelson W. Cheney.....	Erie.....	Ellettsville
	Fred L. Porter.....	Essex.....	Crown Point
	Anson H. Ellsworth.....	Franklin.....	Fort Covington
	Eberly Hutchinson.....	Fulton and Hamilton.....	Johnstown
	Charles P. Miller.....	Genesee.....	South Byron
	George W. Osborn.....	Greene.....	Windham
	Frederic S. Cole.....	Herkimer.....	Poland
	H. Edmund Machold.....	Jefferson.....	Ellisburg
1	Francis J. Cronin.....	Kings.....	Brooklyn
2	Edmund H. Alexander.....	Kings.....	Brooklyn
3	Frank J. Taylor.....	Kings.....	Brooklyn
4	Peter A. McArdle.....	Kings.....	Brooklyn
5	James H. Caulfield, Jr.....	Kings.....	Brooklyn
6	John R. Crews.....	Kings.....	Brooklyn
7	John J. Howard.....	Kings.....	Brooklyn
8	Michael J. Reilly.....	Kings.....	Brooklyn

MEMBERS OF ASSEMBLY—(Continued)

District	NAME	County	Address
9	Richard J. Tonry.....	Kings.....	Brooklyn
10	Bernard F. Gray.....	Kings.....	Brooklyn
11	James F. Bly.....	Kings.....	Brooklyn
12	Marcellus H. Evans.....	Kings.....	Brooklyn
13	John J. Wackerman.....	Kings.....	Brooklyn
14	Andrew B. Yacenda.....	Kings.....	Brooklyn
15	John J. McLoughlin.....	Kings.....	Brooklyn
16	Philip M. Kleinfeld.....	Kings.....	Brooklyn
17	Frederick A. Wells.....	Kings.....	Brooklyn
18	Irwin Steingut.....	Kings.....	Brooklyn
19	Charles L. Fasullo.....	Kings.....	Brooklyn
20	Frank A. Miller.....	Kings.....	Brooklyn
21	Walter F. Clayton.....	Kings.....	Brooklyn
22	Howard C. Franklin.....	Kings.....	Brooklyn
23	Joseph F. Ricca.....	Kings.....	Brooklyn
	Miller B. Moran.....	Lewis.....	Lowville
	Lewis G. Stapley.....	Livingston.....	Geneseo
	J. Arthur Brooks.....	Madison.....	Cazenovia
1	James A. Harris.....	Monroe.....	East Rochester, R. F. D., No. 2
2	Simon L. Adler.....	Monroe.....	Rochester
3	Vincent B. Murphy.....	Monroe.....	Rochester
4	Gilbert L. Lewis.....	Monroe.....	Barnard
5	Franklin W. Judson.....	Monroe.....	Coldwater
	Samuel W. McCleary.....	Montgomery.....	Amsterdam
1	Thomas A. McWhinney.....	Nassau.....	Lawrence
2	F. Trubee Davison.....	Nassau.....	Locust Valley
1	Peter J. Hamill.....	New York.....	New York city
2	Frank R. Galgano.....	New York.....	New York city
3	Thomas F. Burchill.....	New York.....	New York city
4	Samuel Dickstein.....	New York.....	New York city
5	Charles D. Donohue.....	New York.....	New York city
6	Sol Ullman.....	New York.....	New York city
7	Victor R. Kaufmann.....	New York.....	New York city
8	Henry O. Kahan.....	New York.....	New York city
9	Edward R. Rayher.....	New York.....	New York city
10	Bernard Aronson.....	New York.....	New York city
11	Samuel I. Rosenman.....	New York.....	New York city
12	John J. O'Connor.....	New York.....	New York city
13	John P. Nugent.....	New York.....	New York city
14	Frederick L. Hackenburg.....	New York.....	New York city
15	Joseph Steinberg.....	New York.....	New York city
16	Maurice Bloch.....	New York.....	New York city
17	August Claessens ¹	New York.....	New York city
18	Owen M. Kiernan.....	New York.....	New York city
19	James Male.....	New York.....	New York city
20	Louis A. Cu villier.....	New York.....	New York city
21	Horace W. Palmer.....	New York.....	New York city
22	Michael E. Reiburn.....	New York.....	New York city
23	George N. Jesse.....	New York.....	New York city
1	David E. Jeffery.....	Niagara.....	Lockport
2	Frank S. Hall.....	Niagara.....	Lewiston, R. F. D., No. 18

¹ Vice Murray Felenstein, originally seated on face of the returns. A recount of the vote showed a plurality for Claessens, who was accordingly seated by resolution of the Assembly February 28, 1922.

LIST OF OFFICERS

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MEMBERS OF ASSEMBLY—(Concluded)

District	NAME	County	Address
1	Hartwell W. Booth.....	Oneida.....	Utica
2	Russell G. Dunmore.....	Oneida.....	New Hartford
3	Chauncey J. Williams.....	Oneida.....	Renssen
1	Manuel J. Soule.....	Onondaga.....	Euclid
2	Gardner J. Chamberlin.....	Onondaga.....	Syracuse
3	Thomas K. Smith.....	Onondaga.....	Syracuse
	Charles C. Sackett.....	Ontario.....	Canandaigua
1	Arthur E. Brundage ¹	Orange.....	Newburgh
2	George R. Farrell.....	Orange.....	Goshen
	Frank H. Lattin.....	Orleans.....	Albion
	Ezra A. Barnes.....	Oswego.....	Oswego
	Julian C. Smith.....	Otsego.....	Oneonta
	John R. Yale.....	Putnam.....	Brewster
1	Peter A. Leininger.....	Queens.....	Long Island City
2	Owen J. Dever.....	Queens.....	Ridgewood, L. I.
3	Joseph V. Loscalzo.....	Queens.....	Elmhurst, L. I.
4	Joseph H. S. Thomas.....	Queens.....	Bayside, L. I.
5	William F. Brunner.....	Queens.....	Rockaway Beach, L. I.
6	Joseph E. Cosgrove ²	Queens.....	Woodhaven, L. I.
1	John F. Rourke.....	Rensselaer.....	Troy
2	Arthur Cowee.....	Rensselaer.....	Berlin
1	Thomas F. Cosgrove.....	Richmond.....	St. George
2	William L. Vaughan.....	Richmond.....	Tottenville
	Pierre H. DePew.....	Rockland.....	Nyack
1	William A. Laidlaw.....	St. Lawrence.....	Hammond
2	Edward A. Everett.....	St. Lawrence.....	Potsdam
	Burton D. Edmond.....	Saratoga.....	Ballston Spa
1	Charles T. Male.....	Schenectady.....	Niskayuna
2	William W. Campbell.....	Schenectady.....	Schenectady
	Wallace H. Sidney.....	Schoharie.....	Central Bridge
	Clarence W. Hausner.....	Schuyler.....	Montour Falls
	George A. Dobson.....	Seneca.....	Seneca Falls
1	Ernest E. Cole.....	Steuben.....	Bath
2	Leon F. Wheatley.....	Steuben.....	Hornell
1	John G. Peck.....	Suffolk.....	Southampton
2	Paul N. Westerbeke.....	Suffolk.....	Sayville
	Guernsey T. Cross.....	Sullivan.....	Callicoon
	Daniel P. Witter.....	Tioga.....	Berkshire
	Casper Fenner.....	Tompkins.....	Lake Ridge via Lud- lowville
	Simon B. Van Wagenen.....	Ulster.....	Kingston
	Milton N. Eldridge.....	Warren.....	Warrensburg
	Herbert A. Batholomew.....	Washington.....	Whitehall
	Charles H. Betts ⁴	Wayne.....	Lyons
1	T. Channing Moore.....	Westchester.....	Bronxville
2	Walter W. Westall.....	Westchester.....	White Plains
3	Seabury C. Mastick.....	Westchester.....	Pleasantville
4	Russell B. Livermore.....	Westchester.....	Yonkers
5	George Blakely.....	Westchester.....	Yonkers
	Webber A. Joiner.....	Wyoming.....	Attica
	James M. Lown, Jr. ⁵	Yates.....	Penn Yan

¹ Resigned June 14, 1922.

² Resigned March 31, 1922.

⁴ Resigned April 14, 1922.

⁵ Appointed second deputy superintendent of insurance, March 24, 1922.

LAWS OF THE STATE OF NEW YORK

PASSED AT THE 145TH REGULAR SESSION OF THE LEGISLATURE, BEGUN
JANUARY 4, 1922, AND ENDED MARCH 17, 1922, AT THE CITY OF ALBANY.

VOLUME I

CHAPTER 1

AN ACT to amend the labor law, in relation to building construction.

Became a law January 18, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Section 1. Subdivision six of section two hundred and forty-one of chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended to read as follows:

L. 1921,
ch. 50,
§ 241,
subd. 6
amended.

6. If a building in course of construction is five stories or more high, no lumber or timber¹ for such construction shall be hoisted or lifted on the outside of such building.

§ 2. This act shall take effect immediately.

CHAPTER 2

AN ACT reappropriating a portion of an item for personal service in the office of the legislative bill drafting commission for other personal service in such office.

Became a law January 25, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Section 1. Of the sum of twenty-four hundred dollars (\$2,400), being the unexpended balance of an item appropriated by chapter one hundred and seventy-six of the laws of nineteen hundred and twenty-one for legal assistant in the office of the bill drafting commission, the sum of sixteen hundred dollars (\$1,600) is hereby reappropriated for the salaries of two stenographers in such office, for the period of four months beginning February first, nineteen hundred and twenty-two, and ending May thirty-first,

¹ Words "lumber or timber" substituted for word "material."

nineteen hundred and twenty-two, at a salary of not exceeding two hundred dollars per month each. Except as reappropriated by this act, the money appropriated by such item for a legal assistant shall cease to be available.

§ 2. This act shall take effect immediately.

CHAPTER 3

AN ACT to legalize the acts and proceedings of the board of supervisors of the county of Chautauqua, and the officers and agents of such board and county, in relation to the issuance and sale of bonds of such county to the amount of one million dollars for the construction and improvement of highways in such county, to legalize, validate and confirm such bonds and to provide for their payment.

Became a law January 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings
legalized.

Section 1. The acts and proceedings of the board of supervisors of the county of Chautauqua, on or about the ninth day of December, nineteen hundred and twenty-one, in relation to authorizing the issuance and sale of bonds of such county to the amount of one million dollars to provide moneys to pay the estimated share of the county of the cost of construction and improvements of highways in such county under the provisions of sections three hundred and twenty and three hundred and twenty-a of the highway law, heretofore constructed or improved or to be constructed and improved, and all acts and proceedings of such board, its officers and agents, and officers and agents of such county, before and since such day in relation to such matter, are hereby legalized, ratified and confirmed, notwithstanding any want of statutory power or authority, or any irregularity or omission in such acts or proceedings; and the board of supervisors of such county is hereby authorized, by resolution or resolutions, to provide for the execution of such bonds, and, from time to time, for the time and manner of the issuance and sale thereof or of any part, and to prescribe the form of such bonds, the rate of interest and the time and manner of payment of interest and principal, provided, however, that the bond or bonds last maturing shall be payable not later than the first day of April, nineteen hundred and thirty-one, and that the bonds shall be sold for not less than par. Such bonds are hereby legalized, validated and confirmed, and, when issued and sold, shall be valid obligations of the county of Chautauqua. Such county and the board of supervisors thereof, in the manner provided by law, shall levy and collect in each year, while any such bonds are outstanding and unpaid, upon all taxable property in such county, a tax sufficient to pay the interest upon such bonds and the principal thereof as the same shall become due and payable.

Bonds;
execu-
tion,
sale,
form,
interest,
maturity.

Bonds
legalized.

Tax for
payment.

Pending
actions.

§ 2. This act shall not affect any action or proceeding now pending in any court.

§ 3. This act shall take effect immediately.

CHAPTER 4

AN ACT to amend the code of criminal procedure, in relation to jurisdiction of county courts.

Became a law January 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-two of the code of criminal procedure is hereby amended to read as follows:

§ 42
amended.

§ 42. **By whom held.** A county court must be held by the county judge, except in the county of Kings, where the county court is divided into two parts, which are to be held by two county judges elected in and for said county respectively, and except also in the counties of Erie and Onondaga,¹ where the county court may be divided into two or more parts, which are to be held by the county judge of such county and by such county judge or judges from other counties as may be requested to act, or by the said judge or judges of such other counties.

§ 2. This act shall take effect immediately.

CHAPTER 5

AN ACT to amend chapter nine hundred and fifty-eight of the laws of nineteen hundred and twenty, entitled "An act to provide for the construction, by the state, of a hospital for discharged soldiers, sailors and marines, from the state of New York, suffering from mental diseases, and making an appropriation therefor," in relation to the objects and purposes of such hospital and the manner of construction, and reappropriating the moneys appropriated by such chapter.

Became a law February 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter nine hundred and fifty-eight of the laws of nineteen hundred and twenty, entitled "An act to provide for the construction, by the state, of a hospital for discharged soldiers, sailors and marines, from the state of New York, suffering from mental diseases, and making an appropriation therefor," is hereby amended to read as follows:²

L. 1920,
ch. 958
amended.

§ 1. A state hospital is hereby established, to be constructed as provided in this act. Such hospital shall be for the care and treatment of persons suffering from mental diseases who may be committed to it under the provisions of the insanity law. Such hospital shall be known as the Brooklyn State Hospital, Creedmoor Division, and shall be constructed by the authorities and in the manner provided in the insanity law for the construction of a state hospital.

State hospital established; purpose, designation, construction.

¹ Inclusion of Onondaga county new.

² Ch. 958 materially amended.

Location. § 2. Such hospital shall be located upon lands in the borough of Queens, city of New York, heretofore authorized by chapter four hundred and seventy-three, laws of nineteen hundred and eight, as a site for the Long Island State Hospital. Such hospital, when constructed, shall be under the management and control of the state hospital commission, and the provisions of the insanity law, not inconsistent with the provisions of this act, shall apply to such hospital.

Management.
Application of insanity law.
Reappropriation.
Moneys for what purposes available; how paid out.

§ 2.* The sum of two million, nine hundred seventy-nine thousand, seven hundred and eighty-two dollars and seventy-six cents (\$2,979,782.76), being the unexpended balance of the sum of three million dollars appropriated by chapter nine hundred and fifty-eight of the laws of nineteen hundred and twenty for carrying out the provisions of such chapter, or so much thereof as may be necessary, is hereby reappropriated for carrying out the provisions of this act. For the conduct of the work hereby authorized, the state architect may employ such experts and other assistants as may be approved by the board of estimate and control. For their compensation and expenses a sum not to exceed sixty thousand dollars (\$60,000) may be expended from the amount hereby reappropriated. Such moneys also shall be available for the purchase of land for a spur track by the state hospital commission. The moneys for the construction of such hospital shall be paid out as provided in the insanity law, and if land for a spur track be purchased by the state hospital commission the moneys therefor shall be paid out on the certificate of its president.

§ 3. This act shall take effect immediately.

CHAPTER 6

AN ACT reappropriating an unexpended balance for the purpose of the construction and improvement of public highways.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of three hundred and fifty-one thousand one hundred and three dollars and seventy-six cents, being the unexpended balance of the appropriation made by chapter five hundred and twenty-six of the laws of nineteen hundred and fourteen, reappropriated by chapter one hundred and sixty-five of the laws of nineteen hundred and twenty, to be expended for the construction and improvement of public highways in accordance with the provisions of article six of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby reappropriated from the same funds and for the same purpose as provided in said act.

§ 2. This act shall take effect immediately.

* So in original.

CHAPTER 7

AN ACT repealing certain chapters and reappropriating the unexpended balances of the highway improvement fund for the construction and improvement of state and county highways.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapters five hundred and thirty-two, laws of nineteen hundred and ten, one hundred and fifty-five, laws of nineteen hundred and eleven, two hundred and seventy-seven, laws of nineteen hundred and fifteen, four hundred and twenty-six, laws of nineteen hundred and eleven, four hundred and sixty-three, laws of nineteen hundred and eleven, four hundred and sixty-seven, laws of nineteen hundred and eleven, four hundred and ninety-six, laws of nineteen hundred and eleven, six hundred and fourteen, laws of nineteen hundred and eleven, six hundred and fifty-seven, laws of nineteen hundred and eleven, seven hundred and fifteen, laws of nineteen hundred and eleven, seven hundred and thirty-three, laws of nineteen hundred and eleven, seven hundred and forty-three, laws of nineteen hundred and eleven, seven hundred and eighty-six, laws of nineteen hundred and thirteen, as amended by chapter one hundred and eighty-four, laws of nineteen hundred and twenty-one, are hereby repealed.

L. 1910,
ch. 532;
L. 1911,
chs. 155,
426, 463,
467, 496,
614, 657,
715, 733,
743;
L. 1912,
ch. 786, as
amended
by L. 1921,
ch. 184;
L. 1915,
ch. 277.
repealed.

§ 2. The sum of five hundred and seventy-five thousand eight hundred and fifty-three dollars and fifty-nine cents (\$575,853.59), being the amount released by the repeal of the above chapters, is hereby reappropriated from the highway improvement fund, to be expended by the highway commission in accordance with the provisions of article six, chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," and the amendments thereto.

Reappropriation of
amounts
released.

§ 3. This act shall take effect immediately.

CHAPTER 8

AN ACT making an appropriation for the payment by the state in the first instance of the federal government's share of the cost of construction and improvement of rural post roads within the state as provided under the provisions of an act of congress, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes."¹

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of four million nine hundred seventy-one thousand eight hundred ninety-three dollars and eleven cents

¹ See L. 1922, ch. 11, post.

(\$4,971,893.11) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, payable by the state treasurer on the warrant of the comptroller. Such sum, or so much thereof as may be necessary, shall be available for the payment in the first instance of the share of the federal government of the cost of construction or reconstruction of roads within the state as provided by an act of congress, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," approved July eleventh, nineteen hundred and sixteen, said sum to be used for the payment in the first instance of the federal government's share of estimates rendered during the progress of such construction, and the state shall be reimbursed by the federal government for such advance payments upon such estimates under the contract upon which such payments are made. The comptroller is hereby authorized to receive from the federal government the amounts so advanced upon such contracts, and to deposit the funds with the state treasurer to the credit of the general fund so that upon the completion of all such contracts contemplated under the acts of the federal government the state shall be reimbursed for the full amount of any and all such payments.

§ 2. This act shall take effect immediately.

CHAPTER 9

AN ACT making a reappropriation for highway improvement purposes.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two hundred and forty-nine thousand three hundred and seventy-eight dollars and eighty-six cents (\$249,378.86), being the unexpended balance of chapter six hundred sixty-nine, laws of nineteen hundred and twenty, is hereby reappropriated, payable out of moneys received by the comptroller and deposited by him with the state treasurer to the credit of the highway improvement fund, in accordance with the provisions of section one hundred and forty of the highway law, as amended by chapter four hundred of the laws of nineteen hundred and fifteen. The moneys so appropriated, being originally derived from the highway improvement fund and, by provision of law, used to pay the counties' share of the cost of construction of state and county highways in the first instant, shall be expended for the construction of the state and county highways, in accordance with provisions of chapter four hundred of the laws of nineteen hundred and fifteen.

§ 2. This act shall take effect immediately.

CHAPTER 10

AN ACT making an appropriation for highway improvement purposes.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two hundred and thirty-nine thousand two hundred and seventy-four dollars and forty-one cents (\$239,274.41) is hereby appropriated, payable out of moneys received by the comptroller and deposited by him with the state treasurer to the credit of the highway improvement fund, in accordance with the provisions of section one hundred and forty of the highway law, as amended by chapter four hundred of the laws of nineteen hundred and fifteen. The moneys so appropriated, being originally derived from the highway improvement fund and, by provision of law, used to pay Jefferson county's share of the cost of construction of state and county highways in the first instance, shall be expended for the construction of the state and county highways, in accordance with provisions of chapter four hundred of the laws of nineteen hundred and fifteen.

§ 2. This act shall take effect immediately.

CHAPTER 11

AN ACT making an appropriation for the state's share of the cost of construction and improvement of rural post roads within the state, under the provisions of certain acts of congress which provide that the United States shall aid in the construction of rural postal roads, and for other purposes, to be expended in accordance with article six-a of the highway law.¹

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of five million five hundred thousand dollars (\$5,500,000) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, to be expended for the payment of the state's share of the cost of construction or reconstruction of highways within the state, as provided by certain acts of congress, which provide that the United States shall aid the states in the construction of the rural post roads and for other purposes, and by article six-a of the highway law, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one, and for the payment of preliminary engineering charges by the state in making of surveys and the preparation of necessary plans, specifications and estimates on such highways and also the

Appropriation.

¹ See L. 1922, ch. 8, ante.

payment of overhead charges and items disallowed by the federal government. The amount available in this state from the appropriation of the federal government for such construction for the fiscal year of the federal government is four million nine hundred seventy-one thousand eight hundred and ninety-three dollars and eleven cents (\$4,971,893.11).

For what
highways
to be ex-
pended.

§ 2. The money hereby appropriated shall be expended in the construction or reconstruction of any state highway which is described and set forth in section one hundred and twenty of the highway law, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one; for the construction of any county highway designated and set forth in section one hundred and twenty-two, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one and for the reconstruction of any county highway as defined in section one hundred and twenty-two of chapter eighteen of the laws of nineteen hundred and twenty-one, provided the designation of such highway as a joint co-operative road is approved by the United States secretary of agriculture, in accordance with the aforesaid acts of congress.

Apportion-
ment of
cost of
construc-
tion.

§ 3. The cost of construction of such proposed federal aid highways, for which the funds are made available by this act, shall be borne as provided in article six-a of the highway law, as amended. The cost of reconstruction, exclusive of preliminary expenses, of any state or county highway as provided in section two of this act shall be borne fifty per centum by the federal government and fifty per centum by the state, except as provided in sections one hundred and seventy-seven and one hundred and eighty of the highway law.

Cost of
elimina-
tion of
railroad
grade
crossings.

§ 4. If it shall become necessary or be deemed advisable to eliminate any railroad grade crossings in connection with the construction or improvement of the federal aid highways, designated and described by this act, the cost of making such elimination shall be borne fifty per centum by the railroad company owning the railroad affected by the elimination in accordance with the provisions of the railroad law, twenty-five per centum by the federal government and twenty-five per centum by the state in the case of a state highway, and jointly by the federal government, state and county in the case of a county highway in the same proportion as the cost of construction or improvement of such state or county highway is paid.

Cost of
construc-
tion
through
Indian
reserva-
tions.

§ 5. If any federal aid highway designated and described by this act shall be constructed into or through an Indian reservation, then the cost of construction of such highway shall be borne fifty per centum by the federal government and fifty per centum by the state.

§ 6. This act shall take effect immediately.

CHAPTER 12

AN ACT to legalize, ratify and confirm the acts and proceedings of the city of North Tonawanda, its voters, officers and agents, in relation to the issuance of bonds of such city in the amount of two hundred and fifty thousand dollars, for the construction of a filtration plant in said city, as authorized at a special taxpayers' election on December fourteenth, nineteen hundred and twenty-one, and to provide for the issuance, sale and payment of such bonds.

Accepted by the city.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All of the acts and proceedings of the city of North Tonawanda, including the several actions, proceedings, resolutions of the board of public works and common council, and of the special taxpayers' election held on December fourteenth, nineteen hundred and twenty-one, authorizing the issuance of the bonds of the city of North Tonawanda in the sum of two hundred and fifty thousand dollars, for the construction of a filtration plant in said city, as is more specifically recited in the form of proposition submitted to and adopted by the qualified taxpayers at such election, are hereby ratified, confirmed and legalized, notwithstanding any defect, irregularity or omission therein; and such bonds when issued and sold shall be valid and subsisting obligations of such city. Proceed-
ings
legalized.

§ 2. The city of North Tonawanda and the common council, board, officers and employees shall, in the manner provided by the charter thereof and the general laws of the state in relation thereto, cause such sums to be raised annually by city tax as may be necessary to pay the principal and interest of such bonds as they shall become due and until such bonds with interest are fully paid according to the tenor thereof; such tax to be laid upon the taxable property within such city, levied in the same manner as other city taxes therein. Bonds
validated.

§ 3. Such bonds may all be issued at once or from time to time as may be determined by the common council of said city, and may be sold for not less than par in the manner provided by law, and the proceeds shall be applied to the objects of the tax heretofore authorized as provided herein. Tax for
payment.

§ 4. This act shall not affect any action or proceeding now pending in any court. Bonds;
time of
issuance;
sale; ap-
plication
of pro-
ceeds.

§ 5. This act shall take effect immediately. Pending
actions.

CHAPTER 13

AN ACT to legalize, ratify and confirm the acts and proceedings of the city of North Tonawanda, its voters, officers and agents, in relation to the issuance of bonds of such city in the amount of three hundred and fifty thousand dollars, for construction and extension of the sewer system in said city, as authorized at a special taxpayers' election on December fourteenth, nineteen hundred and twenty-one, and to provide for the issuance, sale and payment of such bonds.

Accepted by the city.

Became a law February 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings
legalized.

Section 1. All of the acts and proceedings of the city of North Tonawanda, including the several actions, proceedings, resolutions of the board of public works and common council, and of the special taxpayers' election held on December fourteenth, nineteen hundred and twenty-one, authorizing the issuance of the bonds of the city of North Tonawanda in the sum of three hundred and fifty thousand dollars, for construction and extension of the sewer system in said city, as is more specifically recited in the form of proposition submitted to and adopted by the qualified taxpayers at such election, are hereby ratified, confirmed, and legalized, notwithstanding any defect, irregularity or omission therein; and such bonds when issued and sold shall be valid and subsisting obligations of such city.

Bonds
validated.

Tax for
payment.

§ 2. The city of North Tonawanda and the common council, boards, officers and employees shall, in the manner provided by the charter thereof and the general laws of the state in relation thereto, cause such sums to be raised annually by city tax as may be necessary to pay the principal and interest of such bonds as they shall become due and until such bonds with interest are fully paid according to the tenor thereof; such tax to be laid upon the taxable property within such city, levied in the same manner as other city taxes therein.

Bonds;
time of
issuance;
sale; ap-
plication
of pro-
ceeds.

§ 3. Such bonds may be issued from time to time in amounts to be determined by the common council of said city, and may be sold for not less than par in the manner provided by law, and the proceeds shall be applied to the objects of the tax heretofore authorized as provided herein.

Pending
actions.

§ 4. This act shall not affect any action or proceeding now pending in any court.

§ 5. This act shall take effect immediately.

CHAPTER 14

AN ACT to amend the state law, in relation to the purposes for which lands may be purchased by the United States government.

Became a law February 9, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty of chapter fifty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the sovereignty, boundaries, survey, great seal and arms of the state, congressional districts, senate districts, and apportionment of the members of assembly of this state, and enumeration of the inhabitants of the state, constituting chapter fifty-seven of the consolidated laws," as last amended by chapter eight hundred and nineteen of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

L. 1909,
ch. 59,
§ 50, as
amended
by L. 1917,
ch. 819,
amended.

§ 50. **Consent of state to purchase of land and record of conveyances.** The consent of the state of New York is hereby given to the purchase by the government of the United States, and under the authority of the same, of any tract, piece or parcel of land from any individual or individuals, bodies politic or corporate within the boundaries of this state, for the purpose of parade or manoeuver grounds, aviation fields, navy yards and naval stations, or for the purpose of erecting thereon light-houses, beacons, light-house keepers' dwellings, hospitals, sanatoriums,² works for improving navigation, post-offices, custom houses, fortifications, or buildings and structures for the storage, manufacture or production of supplies, ordnance, apparatus or equipment of any kind whatsoever for the use of the army or navy, and any other needful buildings and structures,³ and all deeds, conveyances or other papers relating to the title thereof shall be recorded in the office of the register, if any, or if not in the office of the county clerk, of the county where the said lands are situated.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1910, ch. 109; L. 1911, ch. 527.

² Words "hospitals, sanatoriums" new.

³ Words "and any other needful buildings and structures," new.

CHAPTER 15

AN ACT to require the attorney-general to appear for the people and protect the interests of the public in the matter pending before the public service commission relating to rates, charges, rentals, regulations and practices of the New York Telephone Company, and making an appropriation therefor.

Became a law February 9, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The attorney general shall appear for the people of the state, and take such steps as may be necessary to protect the interests of the public, in the proceeding heretofore instituted by the public service commission and entitled "In the matter of the hearing on motion of the commission, as to rates, charges and rentals, and the regulations and practices affecting rates, charges and rentals of the New York Telephone Company." For such purpose, he may employ special deputies, experts and other assistants, and incur such other expenses as he may find necessary, within the amount appropriated by this act. The sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, is hereby appropriated for carrying out the provisions of this act. The moneys appropriated shall be paid out by the state treasurer on the warrant of the comptroller upon the certificate of the attorney-general.

§ 2. This act shall take effect immediately.

CHAPTER 16

AN ACT to legalize and confirm the official acts of notaries public and commissioners of deeds.

Became a law February 14, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acts since March 22, 1921, notwithstanding certain irregularities, legalized.

Section 1. The official acts of every person as notary public or commissioner of deeds heretofore commissioned as such, which acts have been performed since the twenty-second day of March, nineteen hundred and twenty-one,¹ so far as such acts may be affected, impaired or questioned by reason of any error or omission in the caption or venue, or elsewhere, in properly setting forth or designating the location where the instrument was acknowledged, or by reason of change of residence made after appointment, or by reason of misnomer or mis-spelling of name or other errors made in the appointment or commission of said notary public or commissioner of deeds, or by reason of omission or failure to take the

¹See L. 1921, ch. 110.

prescribed oath of office within the time required by law, or by reason of such person being under the age of twenty-one years, or by reason of the expiration of the term of office of such notaries public or commissioners of deeds, or by reason of such notary holding some other civil office within the state, or by reason of failure of a notary public to file his certificate of appointment and official oath as such notary in a county other than the county in which such appointment was made and the certificate of such appointment was duly filed, where such notary public or commissioner of deeds has acted in good faith, upon payment being made by such notary public or commissioner of deeds of the legal fees for holding such office or filing such certificate, are hereby legalized and confirmed and made effectual and valid, as the official acts of a notary public or commissioner of deeds legally qualified to perform the same, as fully as if neither of the various errors, omissions, matters and conditions hereinabove enumerated had occurred or existed.

§ 2. This act shall take effect immediately.

CHAPTER 17

AN ACT to amend the highway law, in relation to the renewal of licenses of operators and chauffeurs of motor vehicles.

Became a law February 14, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision five of section two hundred and eighty-nine of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1909,
ch. 30,
§ 289,
subd. 5, as
amended
by L. 1921,
ch. 580,
amended.

5. Renewal. Such license shall be renewed annually, such renewal to take effect on the first day of July of each year, provided, that licenses² in effect July first, nineteen hundred and twenty-one,³ shall upon their expiration be renewed⁴ until July first, nineteen hundred and twenty-two, and the fee therefor shall be one dollar.⁵ The tax commission may refuse to issue or renew a license if it⁶ deems the applicant not qualified to receive such license, but the refusal of the tax commission may be reviewed by writ of certiorari. For renewals to take effect on and after July first, nineteen hundred and twenty-two, the fee shall be two dol-

¹ Section 289 as added by L. 1910, ch. 374; subd. 5 previously amended by L. 1911, ch. 491; L. 1917, ch. 760.

² Word "now" omitted.

³ Words "July first, nineteen hundred and twenty-one," new.

⁴ Words "for a period of five months or" omitted.

⁵ Words ", and the fee therefor shall be one dollar," new.

⁶ Word "it" substituted for word "he."

lars for a chauffeur's license and one dollar for an operator's license.

Subd. 5, as amended, in effect as of July 1, 1921.

§ 2. Subdivision five of section two hundred and eighty-nine of such chapter as amended by this act shall be construed as having been in effect, as so amended, as of July first, nineteen hundred and twenty-one.

§ 3. This act shall take effect immediately.

CHAPTER 18

AN ACT to amend the highway law, in relation to limitations upon laying out highways.

Became a law February 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 200, as amended by L. 1921, ch. 10, amended.

Section 1. Section two hundred of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter ten of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 200. **Limitations upon laying out highways.** No highway shall be laid out less than three rods in width nor through² buildings or any fixtures or erections for the purpose of trade or manufactures, or any yard or enclosure necessary to the use and enjoyment thereof, without the consent of the owner or owners thereof, unless so ordered by the county court of the county in which the proposed highway is situated; such order shall be made on the certificate of the town superintendent of the town or towns in which the proposed highway is situated, showing that the public interests will be greatly promoted by the laying out and opening of such highway, and that commissioners appointed by the court have certified that it is necessary; a copy of the certificate with eight days' notice of the time and place of the hearing before the county court shall be served on the owners of the land, or if they are not residents of the county upon the occupants; the county court upon such certificates, and the proofs and other proceedings therein, may order the highway to be laid out and opened, if it deems it necessary and proper. The town superintendent shall then present the order of the county court, with the certificate and proofs upon which it was granted, certified by such court, to the appellate division of the supreme court in the judicial department in which the land is situated, upon the usual notice of motion, served upon the owner or occupant, or the attorney who appeared for them in the county court. If such appellate division of the supreme court shall confirm the order of the county court, the

¹ Previously amended by L. 1911, ch. 624.

² Words "an orchard of the growth of four years or more, or any garden cultivated as such for four years or more, or grape vineyards of one or more years' growth, and used in good faith for vineyard purposes, or," omitted.

town superintendent shall then lay out and open such highway as in other cases. The provisions of this section shall not apply to¹ buildings, fixtures, erections, yards or inclosures, made or placed on such land after an application for the laying out and opening of the highways shall have been made. In case the highway to be laid out shall constitute an extension or continuation of a public highway already in use, and shall not as to such new portion exceed half a mile in length, the town superintendent may lay out such extension or continuation of a width of less than three rods, provided, however, that it be not less than the widest part of the highway of which it is an extension or continuation. In such case the town superintendent shall specify in his certificate the precise width of the new portion of such highway, and shall certify that such width is as great at least as the widest part of the highway of which it is a continuation or extension. No highway shall be laid out which shall be identical or substantially so with a highway previously discontinued or abandoned for public purposes within seven years of such discontinuance or abandonment, nor where other land or property has been conveyed to the town at the time of such discontinuance or abandonment in counties adjoining cities with upward of one million inhabitants.

§ 2. This act shall take effect immediately.

CHAPTER 19

AN ACT to amend the insanity law, in relation to the number and compensation of employees in certain state hospitals.

Became a law February 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions two and three of section one hundred and thirty-five of chapter thirty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the insane, constituting chapter twenty-seven of the consolidated laws," being such subdivisions of former section one hundred and fifteen, as amended by chapter one hundred and twenty-one of the laws of nineteen hundred and twelve, such section having been renumbered one hundred and thirty-five by chapter fifty-nine of the laws of nineteen hundred and twelve, are hereby amended to read as follows:

2. Appoint a steward and matron and¹ such number of assistant physicians as may be provided for by the legislature, by appropriations,² all of whom and the medical superintendent shall reside in the hospital and shall be known as the resident officers thereof.

¹ Words "vineyards planted or to" omitted.

² Words "a steward and matron and" new.

³ Words "may be provided for by the legislature, by appropriations," substituted for words "the necessities of the institution may require, subject to the approval of the superintendent of state prisons, also a steward and matron."

L. 1909, ch. 32, § 135, subds. 2, 3, as renumbered by L. 1912, ch. 59, and amended by L. 1912, ch. 131, amended.

Appointment and compensation of employees of Matteawan State Hospital.

3. Appoint such and so many attendants and other subordinate employees,³ for the economical and efficient administration of the affairs of the hospital as may be provided for by the legislature, by appropriations,⁴ and prescribe their several duties and places, and,⁵ with the approval of the superintendent of state prisons, fix⁶ their compensation within the amounts appropriated therefor,⁷ and discharge any of them at his sole discretion; but in every case of discharge, so occurring, he shall, forthwith, enter the same with the reasons therefor, under a proper⁸ heading, in one of the record books of the hospital.

§ 155,
subds. 2, 3,
as renum-
bered by
L. 1912,
ch. 59,
and
amended
by L. 1912,
ch. 121,
amended.
Appoint-
ment and
compensa-
tion of
of em-
ployees of
Danne-
mora
State
Hospital.

§ 2. Subdivisions two and three of section one hundred and fifty-five of such chapter, being such subdivisions of former section one hundred and forty-five, as amended by chapter one hundred and twenty-one of the laws of nineteen hundred and twelve, such section having been renumbered one hundred and fifty-five by chapter fifty-nine of the laws of nineteen hundred and twelve, are hereby amended to read as follows:

2. Appoint a steward and⁹ such number of assistant physicians as may be provided for by the legislature, by appropriations,¹⁰ all of whom and the medical superintendent, shall, as soon as accommodations are provided, reside on the hospital grounds, and shall be known as the resident officers of the hospital.

3. Appoint such and so many attendants and other subordinate employees,³ for the economical and efficient administration of the affairs of the hospital, as may be provided for by the legislature, by appropriations,⁴ and prescribe their several duties and places, and,⁵ with the approval of the superintendent of state prisons, fix⁶ their compensation within the amounts appropriated therefor,⁷ and discharge any of them at his sole discretion; but in every case of discharge, so occurring, he shall, forthwith, enter the same with the reasons therefor, under a proper⁸ heading, in one of the record books of the hospital.

§ 3. This act shall take effect immediately.

³ Words "as he may think proper and necessary," omitted.

⁴ Words "as may be provided for by the legislature, by appropriations," new.

⁵ Word "fix" omitted.

⁶ Word "fix" new.

⁷ Words "within the amounts appropriated therefor," new.

⁸ Words "a proper" substituted for words "an appropriate."

⁹ Words "a steward and" new.

¹⁰ Words "may be provided for by the legislature, by appropriations," substituted for words "the necessities of the institution may require, and a steward."

CHAPTER 20

AN ACT to amend the education law, in relation to apportionment of school moneys.

Became a law February 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section four hundred and ninety-one-a of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," such chapter having been amended by chapter one hundred and forty of the laws of nineteen hundred and ten and such section added by chapter six hundred and forty-five of the laws of nineteen hundred and nineteen and such subdivision amended by chapter six hundred and eighty of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

3. The trustees or board of education in each school district, except a city school district, and a union free school district in which schedules of compensation or salaries are required to be filed as provided in article thirty-three-b of this chapter, shall pay to each teacher employed in such district a compensation or a salary which shall be not less than at the rate of eight hundred dollars for a school year of forty weeks. Such minimum compensation or salary shall become effective for the school year beginning August first, nineteen hundred and twenty, and continue annually thereafter.¹

§ 2. This act shall take effect immediately.

CHAPTER 21

AN ACT to amend the town law, in relation to peace officers in towns in a county containing a city of the first class.

Became a law February 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-one-a of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by section one hundred and twenty-two of chapter one hundred and forty-seven of the laws of nineteen hundred and nine and thus renumbered and amended by chapter forty-eight of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

¹ Sentence omitted which read: "If such teacher shall be paid at such rate for a school year of less than forty weeks, the quota apportioned to such district on account of such teacher as provided herein shall be reduced proportionately."

§ 121-a. Peace officers in towns of counties adjoining cities of the first class and in towns in a county containing a city of the first class.¹ The town board of any town, within a county adjoining a city of the first class and the town board in any town in any county containing a city of the first class² may, upon the petition of twenty-five taxpayers of the town, annually raise by taxation a sum of money not to exceed one-tenth of one per centum of the assessed valuation of the taxable property of the town, for the purpose of defraying the expenses necessary for the preservation of the public peace of the town; except that the town board of any town within a county having a population of more than three hundred thousand according to the last federal or state census or enumeration, and adjoining a city of the first class having a population of one million and upwards, may, upon such a petition, annually raise by taxation a sum of money not to exceed one-fifth of one per centum of the assessed valuation of the taxable property of such town, for said purposes, provided, however, that in such a county the board of supervisors of said county may upon the application of the town board of such a town in said county designate what part or portion of said town shall be liable to such taxation, and the assessed valuation of said part or portion so designated shall be used in determining the amount of money which said town can raise for such purposes and the sum necessary to be raised for such purposes shall be levied and collected in the same manner as other town taxes or charges from said part or portion of said town so designated. The town board of any such town may thereafter annually appoint for a term not extending beyond the current official year competent persons who shall be termed peace officers for such town, and who shall have all the powers and be subject to all the duties and liabilities of a constable of such town in all criminal actions and proceedings and special proceedings of a criminal nature. The compensation for the services of such peace officers shall be fixed by said town board at a yearly salary and shall be paid by such board in equal monthly payments, and bills for expenses and equipments of such officers shall be audited and paid by said town board monthly. The town board may dispense with the services of any or all persons who may be appointed hereunder whenever said board shall deem that their services are unnecessary. No person shall be appointed as a peace officer under this section who is not a citizen of the United States, or who has ever been convicted of a crime or who cannot understand English or read and write the English language.

§ 2. This act shall take effect immediately.

¹ Words "and in towns in a county containing a city of the first class," new.

² Words "and the town board in any town in any county containing a city of the first class," new.

CHAPTER 22

AN ACT to amend the code of criminal procedure, in relation to grand jury stenographers in Erie county.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine hundred and fifty-two-p of the code of criminal procedure is hereby amended to read as follows: § 952p
amended.

§ 952-p. **Appointment of stenographers.** It shall be lawful for the district attorney of any county of this state, to appoint a stenographer to take the testimony given before the grand juries in said county. ¹ In the county of Kings, it shall be lawful for the district attorney of said county to appoint two stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in the said county of Kings, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Kings. ² In the county of Erie, it shall be lawful for the district attorney of said county to appoint three stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Erie, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Erie. In the county of New York, it shall be lawful for the district attorney of such county to appoint three stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of New York, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of New York. In the county of Monroe, it shall be lawful for the district attorney of such county to appoint three stenographers, to be known as the first, second and third stenographer, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Monroe, and each of whom shall be considered as an assistant to the district attorney and under his direction and control. Every stenographer so appointed whenever directed by the district attorney, shall have authority to attend upon and take and transcribe the testimony given at coroner's inquests and the examination and trial of criminal cases, which said testimony so taken and transcribed shall be for the exclusive use and benefit of the district attorney, unless otherwise ordered by the court, or otherwise agreed upon by the district attorney. The appointment of a stenographer by said

¹ References to Erie county in following sentence omitted.

² Following sentences new.

§ 121-a. Peace officers in towns of counties adjoining cities of the first class and in towns in a county containing a city of the first class.¹ The town board of any town, within a county adjoining a city of the first class and the town board in any town in any county containing a city of the first class² may, upon the petition of twenty-five taxpayers of the town, annually raise by taxation a sum of money not to exceed one-tenth of one per centum of the assessed valuation of the taxable property of the town, for the purpose of defraying the expenses necessary for the preservation of the public peace of the town; except that the town board of any town within a county having a population of more than three hundred thousand according to the last federal or state census or enumeration, and adjoining a city of the first class having a population of one million and upwards, may, upon such a petition, annually raise by taxation a sum of money not to exceed one-fifth of one per centum of the assessed valuation of the taxable property of such town, for said purposes, provided, however, that in such a county the board of supervisors of said county may upon the application of the town board of such a town in said county designate what part or portion of said town shall be liable to such taxation, and the assessed valuation of said part or portion so designated shall be used in determining the amount of money which said town can raise for such purposes and the sum necessary to be raised for such purposes shall be levied and collected in the same manner as other town taxes or charges from said part or portion of said town so designated. The town board of any such town may thereafter annually appoint for a term not extending beyond the current official year competent persons who shall be termed peace officers for such town, and who shall have all the powers and be subject to all the duties and liabilities of a constable of such town in all criminal actions and proceedings and special proceedings of a criminal nature. The compensation for the services of such peace officers shall be fixed by said town board at a yearly salary and shall be paid by such board in equal monthly payments, and bills for expenses and equipments of such officers shall be audited and paid by said town board monthly. The town board may dispense with the services of any or all persons who may be appointed hereunder whenever said board shall deem that their services are unnecessary. No person shall be appointed as a peace officer under this section who is not a citizen of the United States, or who has ever been convicted of a crime or who cannot understand English or read and write the English language.

§ 2. This act shall take effect immediately.

¹ Words "and in towns in a county containing a city of the first class," new.

² Words "and the town board in any town in any county containing a city of the first class," new.

CHAPTER 22

AN ACT to amend the code of criminal procedure, in relation to grand jury stenographers in Erie county.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine hundred and fifty-two-p of the code of criminal procedure is hereby amended to read as follows: § 952p
amended.

§ 952-p. **Appointment of stenographers.** It shall be lawful for the district attorney of any county of this state, to appoint a stenographer to take the testimony given before the grand juries in said county. ¹ In the county of Kings, it shall be lawful for the district attorney of said county to appoint two stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in the said county of Kings, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Kings. ² In the county of Erie, it shall be lawful for the district attorney of said county to appoint three stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Erie, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of Erie. In the county of New York, it shall be lawful for the district attorney of such county to appoint three stenographers, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of New York, and such appointments shall be in writing, under the hand and seal of such district attorney, and shall be filed in the county clerk's office of said county of New York. In the county of Monroe, it shall be lawful for the district attorney of such county to appoint three stenographers, to be known as the first, second and third stenographer, each of whom shall have authority to take and transcribe the testimony given before the grand juries in said county of Monroe, and each of whom shall be considered as an assistant to the district attorney and under his direction and control. Every stenographer so appointed whenever directed by the district attorney, shall have authority to attend upon and take and transcribe the testimony given at coroner's inquests and the examination and trial of criminal cases, which said testimony so taken and transcribed shall be for the exclusive use and benefit of the district attorney, unless otherwise ordered by the court, or otherwise agreed upon by the district attorney. The appointment of a stenographer by said

¹ References to Erie county in following sentence omitted.

² Following sentence new.

district attorney shall be deemed a revocation of any prior appointment of a stenographer.

§ 2. This act shall take effect immediately.

CHAPTER 23

AN ACT to amend the highway law, in relation to petitions for the acquisition of lands for right of way and other purposes.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 30,
§ 150, as
amended
by L. 1917,
ch. 140,
amended.

Section 1. Section one hundred and fifty of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter one hundred and forty of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

§ 150. **Petition to acquire lands.** If the board of supervisors is unable to acquire land by purchase as provided for in sections one hundred forty-nine and one hundred forty-nine-a of this chapter,² the board may present to the county court of the county or to the supreme court, at a special term thereof, to be held in the judicial department in which said county is located, a petition for the appointment of three commissioners of appraisal to ascertain and determine the compensation to be paid to the owners of the land to be acquired and to all persons interested therein. Such petition shall describe the land to be acquired with a reference to the map upon which the same is shown which shall be annexed to such petition. A copy of such petition and map shall be filed in the office of the county clerk. Such petition shall be signed and verified in the name of the board of supervisors, by the chairman or a member thereof designated for that purpose by resolution. Notice of presentation of such petition to such court shall be given by the petitioner by publishing such notice in two newspapers published in such county, once in each week for two weeks successively preceding the day of such presentation, and also at least eight days preceding the day of such presentation by serving a copy of such notice, personally or by mail, on the occupant or owner of the land to be acquired, and by posting a copy of said notice in not less than three public places in each town in which property to be acquired is located.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1911, ch. 503. Section 150 is again amended by L. 1922, ch. 371, post, the amendments effected by said ch. 371 being identical with those made by this chapter.

² Words "sections one hundred forty-nine and one hundred forty-nine-a of this chapter," substituted for words "the last section."

CHAPTER 24

AN ACT to amend chapter twenty-nine of the laws of nineteen hundred and two, entitled "An act to make the office of sheriff of Franklin county a salaried office, in part, and to regulate the management thereof," in relation to the purchasing committee.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight of chapter twenty-nine of the laws of nineteen hundred and two, entitled "An act to make the office of sheriff of Franklin county a salaried office, in part, and to regulate the management thereof," as amended by chapter twelve of the laws of nineteen hundred and seven, chapter three hundred and seventeen of the laws of nineteen hundred and eight and chapter one hundred and fifty-six of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:¹

§ 8. (a) The board of supervisors may appoint a purchasing committee, and prescribe the duties to be performed by the said purchasing committee. They may also provide rules and regulations under which purchase of supplies and materials for the county may be made and the manner or method to be pursued in presenting and auditing claims or accounts against the county for which an appropriation has been made.

(b) It shall be the duty of the sheriff of said county, subject to the rules and regulations governing the purchasing committee and the presentation and audit of accounts against the county, to purchase and provide all furniture, implements, material, food and supplies, except heating and lighting, of whatever nature necessary for the custody, care and maintenance of the sheriff and his family, under-sheriff, matron and cook and of the prisoners and persons detained within said jail, and the cost of the same and any actual and necessary expenses of the sheriff in providing the same, shall be a county charge and be paid by the county, as follows: The sheriff shall keep a correct and itemized account of such cost and expenses in a book or books provided for that purpose, at the expense of said county. Each item of such account shall specify the date at which it was incurred, to whom paid, the place where paid, and for what, and the purposes for which it was paid. The said sheriff shall also obtain a voucher for each item incurred by him, which voucher shall be itemized and duly verified by the person furnishing the material or services charged for, to the effect that the bill is correct and true, that the services therein charged were actually performed, that the articles therein charged were actually furnished, that the disbursements therein charged were actually made, all upon the request of the sheriff and the same has been fully paid

L. 1902,
ch. 29,
§ 8, as
amended
by L. 1907,
ch. 12,
L. 1908,
ch. 317,
L. 1918,
ch. 156,
amended.

Purchasing committee; appointment, duties.
Purchase of supplies.
Claims.
Sheriff to purchase certain supplies.

Cost, how paid; duties of sheriff.

¹ Section 8 materially amended.

for by said sheriff. At the end of each month, and not later than ten o'clock in the forenoon of the first Tuesday of each calendar month, the sheriff shall present to said purchasing committee, or any member thereof, a written, verified duplicate statement or abstract, in detail, of all the items so expended for such preceding month, together with all the verified vouchers, so taken as aforesaid, for the items referred to in such statement or abstract. The verification of such duplicate statement shall be by the affidavit of the sheriff that said statement is in all respects full and true, and shall be positive, and not on information and belief.

Reports
to super-
visors.

Adminis-
tration of
oaths;
issuance
of sub-
poenas;
examina-
tion of
witnesses.

(c) Said purchasing committee shall make a report of its proceedings from time to time to the board of supervisors, as the rules and regulations of such board may require.

(d) The sheriff, under-sheriff and each member of the said purchasing committee are hereby authorized to administer an oath to any person with reference to verifying any claim, and the chairman or acting chairman of said purchasing committee is hereby authorized to issue subpoenas requiring the attendance before said committee of any and all persons, administer an oath to them to the effect that they shall true answers make to all questions touching the legality, merits or corrections of any bill before such committee, and he, or any member of such committee, may examine such witnesses in relation to such bills.

§ 2. This act shall take effect immediately.

CHAPTER 25

AN ACT to amend chapter six hundred and fifty-two of the laws of nineteen hundred and eleven, entitled "An act empowering the Northside water commissioners of the town of Waterford, county of Saratoga, to contract for the removal of filth and refuse from Saratoga avenue in said town, and providing for payment therefor," in relation to extending its provisions to other streets and avenues.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 652,
title
amended.

Section 1. The title of chapter six hundred and fifty-two of the laws of nineteen hundred and eleven, entitled "An act empowering the Northside water commissioners of the town of Waterford, county of Saratoga, to contract for the removal of filth and refuse from Saratoga avenue in said town and providing for payment therefor," is hereby amended to read as follows:

An act empowering the Northside water commissioners of the town of Waterford, county of Saratoga, to contract for the removal of filth and refuse from certain streets and avenues¹ in said town and providing for payment therefor.

§§ 1, 3
amended.

§ 2. Sections one and three of such act are hereby amended to read as follows:

¹ Words "certain streets and avenues" substituted for words "Saratoga avenue."

§ 1. The Northside water commissioners of the town of Waterford, county of Saratoga, are hereby authorized and empowered to contract for the removal of filth and refuse from Saratoga avenue, Van Ess street, Fairview avenue, Maple avenue and King street ^{Contract authorized.} in said town.

§ 3. Any such contract shall be made and entered into by such commissioners in the name of said commissioners and their successors in office, and shall be a valid and binding charge upon the real property abutting such streets and avenues; ^{Contract; execution, lien.} and the amount of such contract shall be assessed upon the real property abutting such streets and avenues ^{Assessment and collection of amount.} and against any street surface railway now or hereafter operated upon and along such streets and avenues. Such assessment shall be made, levied and collected in the same general manner, and at the same time, and by the same officers as the town taxes of said town are assessed, levied and collected.

§ 3. This act shall take effect immediately.

CHAPTER 26

AN ACT to amend chapter four hundred and three of the laws of nineteen hundred and twelve, entitled "An act to create and establish a firemen's relief and pension fund for the fire department of the city of Binghamton and authorizing the granting and payment of pensions and relief therefrom," in relation to pensions to widows and children.

Accepted by the City.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections five and six of chapter four hundred and three of the laws of nineteen hundred and twelve, entitled "An act to create and establish a firemen's relief and pension fund for the fire department of the city of Binghamton and authorizing the granting and payment of pensions and relief therefrom," are hereby respectively amended to read as follows:

L. 1912,
ch. 403,
§§ 5, 6
amended.

§ 5.¹ Pension to widow and children, et cetera. The widow, minor child or children, or dependent parent or parents of

1. Any officer or member of said department, who has reached the rank of first grade fireman and who has died while a member of said department;

2. Any officer or member of said department below the rank of first grade fireman who has been killed in the actual performance of his duty or who has died from any injury caused by an accident, or from disease which was caused directly by the per-

¹ Words "Van Ess street, Fairview avenue, Maple avenue and King street," new.

² Words "such streets and avenues" substituted for words "said Saratoga avenue."

³ Section 5 materially amended.

formance of his duty; shall be awarded an allowance or pension from said fund by said board of trustees; the amount of such allowance or pension shall be:

1. To the widow of such officer or member, the sum of twenty-five dollars per month.

2. To the child or children of such officer or member, under the age of eighteen years, if there be no widow, or if the widow dies, the sum of twenty-five dollars per month.

3. If there be both widow and children, each child shall be allowed the sum of five dollars per month, provided, however, that the whole amount paid to the widow and minor child or children of any officer or member shall not exceed thirty-five dollars per month collectively; and the board of trustees shall have the right to cancel any pension that may have been granted to the child or children of any widow who shall remarry, and such cancellation shall not be subject to review or reversal by any court.

4. To the dependent parent or parents of such officer or member who dies leaving no widow or children under eighteen years of age, the sum of twenty-five dollars per month shall be paid; but no more than the aforesaid maximum sum of twenty-five dollars per month shall be paid in case both parents survive.

5. The payment in all cases shall commence within one week after the date of death of any officer or member of said department.

§ 6. Termination of pensions of widow, children, et cetera. Pensions granted to a widow shall terminate when the widow shall remarry, and pensions granted to children shall terminate whenever they shall respectively marry or arrive at the age of eighteen years. Said board of trustees may, in its discretion, terminate or diminish any pension or any part thereof, granted to any widow, child or parent whenever in their judgment the condition of said fund will not warrant its continuance and payment.²

§ 2. This act shall take effect immediately.

CHAPTER 27

AN ACT to amend the supplemental charter of the city of Binghamton, in relation to powers and duties of assessors and appropriations for park purposes.

Accepted by the City.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections thirty-two and sixty-four of chapter six hundred and sixty-eight of the laws of nineteen hundred and

L. 1917,
ch. 668,
§§ 32, 64
amended.

² Words " , or whenever they deem that the necessities of such widow, child or parent do not require its continuance," omitted.

seventeen, entitled "An act to supplement the general laws applicable to the government of the city of Binghamton, and to revise and consolidate the local laws relating thereto," are hereby amended to read as follows:

§ 32. **Powers and duties of assessors.** The board of assessors shall meet at their office in the city hall in said city at seven o'clock in the afternoon on the second Tuesday of January in each year and elect one of their number chairman. They shall so arrange their work that either the clerk or one of said assessors shall be in attendance at their office each and every day of the year, Sundays and legal holidays excepted, from nine o'clock in the morning until five o'clock in the afternoon. They shall perform all the duties imposed upon them by the provisions of this act, and also perform the duties, possess the powers and be subject to the same obligations as the assessors of the various towns of this state, except as necessarily modified by this act. They shall confer together in the performance of their duties, but their omission so to do shall not invalidate their acts. The annual assessment of property in said city shall be made prior to the fifteenth day¹ of August, and shall be completed by the assessors thereof on or before the sixteenth day of August in each year, who shall enter the assessment² in ³ books or volumes provided for that purpose, to be known collectively, as the assessment roll of the city of Binghamton. Immediately upon the completion of such roll, the assessors shall deposit the same in their office for examination, and shall by posting bills, and by publication in the official paper daily for ten days, give notice of the completion of said roll and the place where it is deposited, and that they will meet for the ten days following the first publication of said notice to hear the allegations and objections of all persons interested therein, and to review and correct said roll. At the time and place designated in said notice and for ten consecutive days, exclusive of Sundays and legal holidays, the assessors shall meet and hear such allegations and objections, and the assessment books shall be open to the inspection of all persons interested. During the time the assessors are reviewing said roll, they may add to or insert therein any property liable to taxation, and the assessment thereof, which may have been omitted, after giving personal notice to the owner or his agent, and make such other corrections as may be proper, on application of any person aggrieved; and in making such corrections, said assessors shall have the same power and be subject to the same provisions of law as the assessors of the several towns of this state. On or before the first day of September of each year, said assessors shall make and file in the office of the city clerk, the correct and complete assessment roll, identifying each volume, except the last, by their signatures, and attach to the last volume, the oaths required by

¹ Words "prior to the fifteenth day" substituted for words "during the months of March, April, May, June, July and the first half."

² Word "alphabetically" omitted.

³ Words "at least four separate" omitted.

law, signed by the assessors or a majority of them, whereupon said assessors shall give the notice required by section thirty-nine of the tax law. The said assessors⁴ shall make or cause to be made, and certify, a correct copy of each volume of said assessment roll as it shall then exist, for the purpose of extending the tax thereon, and on or before the tenth day of November next following, the city clerk⁵ shall deliver the original roll to the board of supervisors of the county of Broome, for the purposes specified in section sixty-three of this act; said board shall, after so doing, return said roll to the city clerk.

§ 64. **Appropriation for hospital purposes; pavements, sewers, curbs; park purposes; celebrations.** The board of estimate and apportionment may annually include in the annual estimate not more than sixty thousand dollars for hospital purposes; not more than forty thousand dollars to defray the city's portion of the cost of construction of new pavements; not more than twenty-five thousand dollars to defray the city's share of the cost of construction of stone or concrete sidewalks, curbs, and combination curbs and gutters; not more than twenty thousand dollars to defray the city's portion of the cost of construction of sanitary sewers; not more than twenty thousand dollars to defray the cost of storm water sewers; such sum as the board shall deem needed⁶ for the maintenance of parks. In any fiscal year the city may by ordinance of the common council adopted by a two-thirds vote, approved by the board of estimate and apportionment, authorize for each of the purposes hereinbefore referred to, an expenditure of an amount not exceeding thirty-three and one-third per centum of the amount for such purpose hereinbefore provided for, and raise the amount so authorized by the issuance of a bond, note or certificate of indebtedness, the amount of which together with interest thereon shall be included in the annual estimate for the succeeding fiscal year and be paid from moneys raised by tax for such year. The expenditure of additional amounts for any of the purposes hereinbefore referred to, may be authorized by ordinance of the common council whenever and to the extent that funds are provided therefor by the issue and sale of bonds in the manner prescribed by law. The board of estimate and apportionment may also include in the annual estimate a sum not exceeding one thousand five hundred dollars for the decoration of public buildings and for carriage hire or other purposes on or for the occasion of any public celebration in which the officers of the city shall participate or in the entertainment of guests of the city.

§ 2. This act shall take effect immediately.

⁴ Words "said assessors" substituted for words "city clerk."

⁵ Words "the city clerk" new.

⁶ Words "such sum as the board shall deem needed," substituted for words "not more than fifteen thousand dollars."

CHAPTER 28

AN ACT to amend the highway law, in relation to compensation of members of county boards of supervisors while serving as members of the committee known as the highway officials of the county.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and ten of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended to read as follows: L. 1909,
ch. 30,
§ 110
amended.

§ 110. **Compensation of supervisor and town clerk.** The supervisor and town clerk of each town shall receive annually, as compensation for services under this chapter in lieu of all other compensation and fees, an amount to be fixed by the town board. Such compensation shall be a town charge. ¹ Nothing herein contained, however, shall prevent the audit, allowance and payment to members of such boards of supervisors of compensation provided by law, for services of such boards of supervisors while serving as members of a committee known as the highway officials of the county, pursuant to section three hundred and twenty-a of this chapter.

§ 2. This act shall take effect immediately.

CHAPTER 29

AN ACT to amend chapter eight hundred and eighty-nine of the laws of nineteen hundred and twenty, entitled "An act creating a commission to investigate and report on the proposed Roosevelt memorials, and making an appropriation therefor," in relation to time for report, and making a reapportionment for the commission.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter eight hundred and eighty-nine of the laws of nineteen hundred and twenty, entitled "An act creating a commission to investigate and report on the proposed Roosevelt memorials, and making an appropriation therefor," as amended by chapter sixteen of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: L. 1920,
ch. 889,
§ 1, as
amended
by L. 1921,
ch. 16,
amended.

§ 1. A commission is hereby created, for the purpose of this act, to consist of six members, two of whom shall be appointed by the senate, two by the assembly and two by the governor, who shall meet as soon after their appointment as convenient and

Commission created; how constituted; organization.

¹ Remainder of section new.

Vacancies. arrange for the selection of a chairman and secretary. A vacancy in the office of a member of the commission shall be filled by the same appointing power as that which appointed his predecessor.

No compensation; expenses. The members of such commission shall receive no compensation for the performance of their duties under this act, but shall be paid their actual and necessary expenses incurred in connection therewith.

Investigation of proposed state memorials, Report. The commission shall have power, and it shall be the object and purpose of the commission, to investigate all proposed state memorials to Theodore Roosevelt, late governor of this state and late president of the United States, and shall report to the legislature and governor on or before January first, nineteen hundred and twenty-four,¹ which in their opinion is most fitting and appropriate.

Reappropriation. § 2. The sum of nine hundred and fifty-five dollars and ninety cents (\$955.90), or so much thereof as may be needed, being the unexpended balance of the sum of one thousand dollars (\$1,000), appropriated by chapter eight hundred and eighty-nine of the laws of nineteen hundred and twenty, is hereby reappropriated for the purpose of the commission, payable in the manner and subject to the provisions of such act.

§ 3. This act shall take effect immediately.

CHAPTER 30

AN ACT authorizing the city of Dunkirk to abate floods in Hyde creek, to prevent the pollution of the waters therein, and to carry the same in a covered drain or channel for parts of its course within said city, and to authorize said city to acquire lands therefor by purchase or by condemnation, and to raise moneys by general and local taxation to pay the costs thereof.

Accepted by the City.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Periodical overflow declared public nuisance. City authorized to abate.

Section 1. The periodical overflow of Hyde creek and obstructions within the channel thereof, and the polluted waters therein, containing decaying organic matters within the city of Dunkirk, are hereby declared to be a public nuisance, and the city of Dunkirk is hereby authorized to fill, clear from obstruction, trench and sewer the said Hyde creek, to alter the course thereof, to construct new channels therefor within said city, and is authorized to carry the same in a covered drain or drains, for such part of its course in Servat street, and in such streets of said city as the common council of said city may determine, and upon and across the right of way to be obtained therefor from the culvert of the New York Central Railroad Company to Lake Erie; also to modify and construct such sanitary sewers in

¹ Formerly read: "nineteen hundred and twenty-two."

Serval street as may be necessary by reason of the construction herein authorized.

§ 2. The common council of said city shall adopt a plan or Plans, plans for such work or improvement in whole or in sections, and may make such changes in or modifications of such plan or plans as it may from time to time deem necessary or advisable. Such work or improvement may be done in sections and different parts of such work may be done at different times, as said common council shall deem most advantageous.

§ 3. The city of Dunkirk shall have power to acquire by purchase or by condemnation, either the fee or such right, title, interest or easement in such lands as the common council of said city shall deem necessary, for any of the purposes mentioned in this act, and such lands or interests in said lands may be so acquired whether or not the same are owned or held for public use, or corporations, persons or associations having the power of eminent domain or otherwise held or used for public purposes. Acquisition of necessary lands.

§ 4. The cost and expense of such work or improvement and of acquiring such lands and interest in lands as may be necessary, shall be paid for in the following manner: Two-thirds of the total cost of the entire work shall be paid for by the city of Dunkirk at large; the other third shall be paid for by assessment against the property reclaimed or benefited by this work, along the natural course of Hyde creek, and shall be assessed in accordance with the area of lands reclaimed or benefited; the city of Dunkirk to pay for the cost of building the covered drain in Serval street where it crosses any other public street or highway. Cost, apportionment.

§ 5. The common council for the purpose of raising the necessary money for the payment for that portion of said work which is to be paid for by the city at large, is authorized to issue bonds therefor over a period of ten years, and at a rate of interest not exceeding six per centum per annum, retiring an equal part of said bonds in each year; and the principal and interest of said bonds, maturing each year, shall be included in the annual estimate to be raised in the same manner as the city taxes. Bond issue.

§ 6. Upon completion of said improvement, or any section of the same, provided for in this act, the common council of the city of Dunkirk shall determine the total cost of the construction of said improvement, including the cost of obtaining lands therefor, and shall direct the assessors of said city to assess one-third of the total cost upon the lands reclaimed or benefited along the natural course of said Hyde creek, as provided in section four of this act. Assessment of lands benefited.

§ 7. After the completion of the assessment-roll, the same shall be offered for public inspection at the office of the assessors, and the assessors shall immediately thereafter notify the common council that said roll has been completed; and the common council shall thereupon set a day for the review of said assessment, which shall be not less than ten or more than fifteen days after the first publication of a notice thereof; and such notice shall be published Notice of completion of assessment-roll. Review of assessment.

in the official paper of the city at least three times, stating that such assessment-roll has been completed and that the said assessors will on the day and at the hour designated, meet at the city hall, to hear all complaints and grievances concerning the same. Following the review and approval of said assessment by the said assessors, the same shall be transmitted to the common council for confirmation and approval.

Warrant
for col-
lection.

Lien of
tax.

Collection.

Payment
in install-
ments.

§ 8. As soon as said assessment-roll has been approved by the common council, it shall be filed with the receiver of taxes, and a warrant of the common council for the collection of the same shall be attached thereto. The tax therein assessed shall thereupon be a lien upon the respective lots and parcels of land therein mentioned. Notice shall be given by the receiver of taxes that such roll has been filed with him for collection, and that he will commence receiving the same, with the one per centum fee added, on the day stated in said notice, and that he will so receive same for a period of sixty days, after the date stated in said notice. Any person who is assessed to pay a certain amount for such improvement may pay the whole or any portion thereof within said number of days. The balance thereof shall be due and payable from each person, in nine equal annual installments, bearing interest at the rate of not more than six per centum per annum, and the same shall be a valid and subsisting lien upon the lands upon which it is assessed, and to the same effect as all other taxes are liens against property in the city of Dunkirk; but any person assessed thereon may at any time within said nine years pay all of the remaining installments that remain unpaid, together with interest thereon at the same rate of interest that is required to be paid by the city of Dunkirk on the bonds which are issued by said city for the payment thereof.

Bond issue
in antici-
pation of
collection
of tax.

§ 9. The common council shall have power to anticipate the collection of the tax upon the assessment-roll for said improvement, by borrowing such a sum in the name and on the credit of the city, and for that purpose may issue bonds in the name of the city, which bonds shall be issued under the corporate seal of said city and shall be signed by the mayor and the city clerk and shall specify the assessment that they were drawn to anticipate, and shall, in turn, be made payable out of that fund only. When such bonds shall be issued in anticipation of the collection of such assessment, a resolution, directing the issue of such bonds shall be adopted by the common council. The common council shall cause a copy of such resolution to be filed in the office of the city treasurer and receiver of taxes, and all sums thereafter received by them upon such assessments shall be, by them, kept separate from other funds and shall be applied to the payment of such bonds as fast as such bonds shall become due, and for no other purpose. The bonds herein provided to be issued in anticipation of the collection of assessments for the work authorized in this act shall be made due and payable at a time or times not exceeding ten years from the date of the first issue of such bonds, with interest at a rate not exceeding six per centum per

Sums re-
ceived to
be kept in
separate
fund.

Bonds;
maturity,
interest.

annum, provided, however, that such series of bonds shall be so made due and payable that at least one-ninth of the total remaining indebtedness for such improvement, as shown upon said assessment-roll, shall be due and payable each year thereafter, together with all accrued interest on such bonded indebtedness, and the further provision that nothing herein contained shall be so construed as to prevent the common council from issuing such bonds in such form and manner that they may be paid in full at any time, subject to the call or action of such common council.

§ 10. The carrying on of the work or improvement authorized by this act and the assessment of the cost of said work or improvement, and the collection of said assessment shall be done in accordance with the provisions of the charter of the city of Dunkirk, and acts amendatory thereof, not inconsistent with the specific provisions of this act.

Work to be done and assessments made pursuant to city charter.

§ 11. This act shall take effect immediately.

CHAPTER 31

AN ACT to amend the Dunkirk city charter, in relation to powers of the board of police and fire commissioners, and the organization of the police department.

Accepted by the City.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and sixty of chapter five hundred and thirty-eight of the laws of nineteen hundred and nine, entitled "An act to consolidate and revise the several acts relative to the city of Dunkirk," as amended by chapter six hundred and thirty-seven of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1909, ch. 538, § 160, as amended by L. 1917, ch. 637, amended.

§ 160. **Election and constitution of board; power to appoint.** At the general election, to be held in nineteen hundred and nine, two police and fire commissioners shall be elected, one for a term of one year and the other for a term of two years, and thereafter such commissioners shall be elected upon the expiration of their several terms and the successors of said commissioners shall be elected upon the expiration of their respective terms for a period of two years. The board of police and fire commissioners of the city of Dunkirk shall consist of the commissioners so elected and the mayor of the city, who shall, by virtue of his office, be the presiding officer of said board. In the event of a vacancy occurring in the office of police and fire commissioners the remaining members shall have the power to fill such vacancy until the next general election. ¹Said board is hereby authorized and empowered by a majority vote to appoint all regular policemen of

¹ Following sentence materially amended.

said city and a chief of police, and one or more assistant chiefs of police and such other officers as said board may deem necessary and proper. ¹Said policemen and said officers shall hold office during good behavior or until removed by said board. ¹Said board is authorized to make suitable rules and regulations prescribing the powers and duties of said officers and policemen. ¹Said board is further authorized to fix the compensation of said officers and policemen, and may grade the salaries of said policemen according to the length of time said policemen have served in the department. ¹Said board shall have charge of the administration of the poor department. Said board is hereby authorized to appoint as many special policemen or detectives for special occasions as shall be deemed necessary for the public good, to fix a reasonable compensation therefor, which shall be paid in the same manner as provided for regular policemen, and is also authorized to appoint as many special policemen, without pay, as said board may deem necessary, and said special policemen shall have the powers of constables, under the statutes of this state, in criminal cases, and of policemen under this act. Said board shall make an annual report to the common council of all matters pertaining to its management, costs and expenses, including such necessary expenses as have been incurred by it in the discharge of its duties.

§ 2. This act shall take effect immediately.

CHAPTER 32

AN ACT to legalize, ratify and confirm all of the acts and proceedings of the village of Portville, in the county of Cattaraugus, its qualified electors, board of trustees, officers and agents in relation to the borrowing of money and the issuance and sale of village bonds to defray the expense of extending the village water line and system from Brooklyn street southeasterly to the new village boundary line as extended, as authorized by a special election May twenty-fifth, nineteen hundred and twenty-one, and to provide for the issuance, sale and payment of such bonds.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings legal-
ized.

Section 1. All of the acts and proceedings of the village of Portville in the county of Cattaraugus, and the qualified electors thereof, including the several actions, proceedings and resolutions of the board of trustees of said village, and of the special election held in said village May twenty-fifth, nineteen hundred and twenty-one, and all such actions, proceedings and resolutions prior or subsequent thereto relating to the propositions submitted at said special election to borrow upon the faith and credit of said village the sum of twelve thousand dollars, or so much thereof as should be necessary, and to issue bonds of such village in

¹ Following sentence materially amended.

the denomination of one thousand dollars each to secure the payment of said loan, bearing interest from their date at the rate of five per centum per annum, such interest payable semi-annually on January first and July first of each year during the term of said bonds respectively and relating to the proposed issuance and sale of said bonds to provide funds to defray the expense of extending the village water line and system from Brooklyn street southeasterly to the new village boundary line as extended, as more specifically recited in the form of proposition submitted to and adopted by the qualified voters at such election, are all and singular ratified, confirmed, validated and legalized, notwithstanding any defect, irregularity, omission, or want of lawful authority in said proposition so submitted, or in the publication of the notice of such special election, or in any of said actions, proceedings or resolutions; and such bonds when issued and sold shall be valid and subsisting obligations of said village of Portville.

Bonds
validated.

§ 2. The village of Portville shall annually cause to be raised by tax, a sum sufficient to pay the principal and interest of such bonds as they shall respectively become due, and until said bonds and interest are fully paid; such taxes to be laid upon the taxable property of such village, levied in the same manner as other village taxes therein.

Tax for
payment.

§ 3. Such bonds shall be sold for not less than par in the manner provided by law, and the proceeds shall be applied to the objects so authorized at said special election.

Bonds;
sale, ap-
plication
of pro-
ceeds.

§ 4. This act shall not affect any actions or proceedings now pending in any court.

Pending
actions.

§ 5. This act shall take effect immediately.

CHAPTER 33

AN ACT to renew the franchise of the ferry from and to the highway at Montcalm Landing, in the town of Ticonderoga, county of Essex, across Lake Champlain, to the Red House landing, or Mount Ferry place, at Mount Independence, in the town of Orwell, in the state of Vermont.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. It shall and may be lawful for George W. Stewart, of Ticonderoga, Essex county, New York, his heirs and assigns to set up, keep and maintain a ferry across Lake Champlain to and from the highway and landing adjacent to his land and premises at or near Montcalm Landing in the town of Ticonderoga, Essex county, New York to and from the Red House landing or Mount Ferry place so-called, at Mount Independence in the town of Orwell in the state of Vermont, now occupied by Amos A. Blood, for the term of ten years to be computed from the fifteenth day of April, nineteen hundred and twenty-two, that being the date

George W.
Stewart
authorized
to main-
tain ferry
across Lake
Champlain.

of the expiration of the present franchise of said ferry now held by him,¹ and he, his heirs and assigns, shall have the right of ferriage between the points specified in this section.

Accommodations to be provided.

§ 2. And if the said George W. Stewart, his heirs or assigns, shall set up, keep and maintain the ferry as aforesaid, he or they shall, during such time, provide, keep and maintain a suitable and safe ferry boat capable and sufficient for carrying automobiles, carriages, wagons and suitable and proper motor and other vehicles of all kinds, horses, cattle, sheep, chattels, property and passengers and ready at all reasonable times and seasons to transport and ferry the same across said lake between the said points.

Rates of ferriage, and hours and seasons of running, how determined.

§ 3. The county court of the county of Essex, upon the application of any person or corporation, and upon such notice in writing as it may deem proper of the hearing thereupon, and of the time and place of such hearing, together with the proof by affidavit of such notice, may in the month of April each year during the continuance of this franchise, direct and determine the several rates of ferriage, and the hours of the day, and the season of the year, and the length of time thereof, that such boat shall be kept in readiness for such transportation at and belonging to said ferry, and until such order, direction and determination it shall be lawful for the said George W. Stewart, his heirs or assigns, to charge, receive and collect reasonable and ordinary ferriage rates, and he shall so keep and operate such boat at all reasonable and proper times and seasons.

Penalty for exacting higher rate of ferriage.

§ 4. If the said George W. Stewart, his heirs or assigns, or any person or ferryman employed by them, shall take, exact or receive any greater or higher rate of ferriage for transporting any person or persons, goods, chattels or other property whatsoever than shall be allowed by or under the provisions of the last preceding section of this act, the person or persons so offending shall forfeit and pay for every such offense the sum of five dollars to be recovered with costs of suit in an action in justice's court before any justice of the peace within the said county, by any person, copartnership, association or corporation that shall sue for the same.

Termination of privileges for non-compliance with this act.

§ 5. If at any time after the passage of this act it shall appear upon sufficient evidence to the county court of the county of Essex that the said George W. Stewart, his heirs or assigns, or any of them, shall willfully and knowingly neglect to comply with the directions, provisions or restrictions of this act in keeping or maintaining the ferry as aforesaid, the said court, after giving them due opportunity to be heard, in opposition, may adjudge and declare that all the rights and privileges granted to them by virtue hereof, shall cease and be of no effect, and such declaration and adjudication shall terminate and end such rights, and privileges, subject, however, to the review by the higher courts.

In effect April 15, 1922.

§ 6. This act shall take effect on the fifteenth day of April, nineteen hundred and twenty-two.

¹ See L. 1912, ch. 346.

CHAPTER 34

AN ACT to amend the county law, in relation to authorizing boards of supervisors to provide for the propagation of game and fish at county institutions.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision eight of section twelve of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows: L. 1909,
ch. 16,
§ 12,
subd. 8
amended.

8. Provide for the protection,¹ preservation or for the propagation at county institutions,² subject to the laws of the state, of wild animals, birds and game, and fish and shellfish, within the county; and prescribe and enforce the collection of penalties for the violation of regulations adopted by the board pursuant to this subdivision.³

§ 2. This act shall take effect immediately.

CHAPTER 35

AN ACT to amend subdivision one of section fifty-two and subdivision three of section fifty-three of the conservation law, relating to protection of forests from fire.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section fifty-two and subdivision three of section fifty-three of article four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," known as the conservation law, as added by chapter four hundred and fifty-one of the laws of nineteen hundred and sixteen, and amended by chapter four hundred and twenty-one of the laws of nineteen hundred and eighteen^{1a} and chapter five hundred and forty of the laws of nineteen hundred and nineteen,^{2a} are hereby amended to read as follows: L. 1911,
ch. 647,
§ 52,
subd. 1,
and § 53,
subd. 3,
as added
by L. 1916,
ch. 461,
amended.

¹ Word "and" omitted.

² Words "or for the propagation at county institutions," new.

³ Words "of regulations adopted by the board pursuant to this subdivision," substituted for word "thereof."

^{1a} L. 1918, ch. 421 neither amended nor otherwise affected §§ 52, 53.

^{2a} L. 1919, ch. 540 amended § 52, but not § 53.

§ 52. **Fire districts.** The following classification of districts is made for the purpose of protecting the forests from fire.

1. **Fire towns.** The commission, for the prevention of forest fires and the extinguishment of fires burning or threatening forests, shall, in the fire towns, maintain a force of forest rangers, observers and fire wardens. It shall maintain an approved fire protective system, including fire observation stations and other equipment necessary to prevent and extinguish forest fires. The territory included within the fire towns shall be divided into five districts, each of which shall be in charge of a district forest ranger. ³ The commission may when necessary in its judgment, in order to protect the forests in the fire towns from fire, take steps to extinguish fires actually burning in any town adjacent to a fire town.

§ 53. **Fire moneys and accounts.** In order to carry into effect the provisions of this article the following is prescribed:

3. **Rebate by ⁴ towns.** One-half of all expense incurred under subdivision two of this section in extinguishing fires actually burning, except salaries and expenses of regular employees, shall be a charge upon the town in which the fire burned. The commission shall, on or before November twentieth of each year, transmit to the clerk of the board of supervisors of each county containing fire towns a summary statement of expenses incurred together with the amount charged against each town in such county. The said clerk shall immediately deliver such statement to the board of supervisors who shall thereupon levy the said amount due from each town to the state upon the taxable property of such town by including the said amount in the sums to be raised and collected in the next levy and assessment of taxes therein, and the same shall be collected as other town taxes are collected and the amount due the state shall be paid by the supervisors to the conservation commission on or before May first following the levy thereof.

§ 2. This act shall take effect immediately.

CHAPTER 36

AN ACT to amend the conservation law, in relation to fees of county clerks.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section one hundred and eighty-five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws,"

L. 1911,
ch. 647,
§ 185,
subd. 4, as
added by
L. 1912, ch.
318, and
amended
by L. 1916,
ch. 297,
amended.

³ Following sentence new.

⁴ Word "fire" omitted.

as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter two hundred and ninety-seven of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

4. Disposition of fees. The license fees above provided for shall be remitted by the city and town clerks on the first Tuesday of each month to the county clerk of the county, with duplicate schedules setting forth the name and residence of each licensee and the serial number of and the amount paid for each license issued. Such license fees, less four per centum² thereof which the county clerk is hereby authorized to retain to cover cost of postage and expressage used in distributing licenses to city and town clerks and for his monthly reports required to be made to the commission, and³ for his compensation, and the license fees received by the county clerk for issuing licenses from his office, less four per centum² thereof for such compensation, expressage and postage,⁴ shall belong to the state and shall be remitted to the commission on the second Tuesday of each month with a duplicate of said schedule, and the fees so received by the commission shall be remitted by the commission to the state treasurer as are fines and penalties.

§ 2. Subdivision fifteen of section one hundred and eighty-five of such chapter, such section having been added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, is hereby repealed.

§ 3. This act shall take effect July first, nineteen hundred and twenty-two.

§ 185,
subd. 15,
as added
by L. 1912,
ch. 318,
repealed.
In effect
July 1,
1922.

CHAPTER 37

AN ACT to amend the conservation law, in relation to hunting and trapping licenses.

Became a law February 20, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision six of section one hundred and eighty-five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter four

L. 1911, ch. 647, § 185, subd. 6, as added by L. 1912, ch. 318, and amended by L. 1917, ch. 486, amended.

¹ Previously amended by L. 1913, ch. 508.

² Formerly "three per centum."

³ Words "to cover cost of postage and expressage used in distributing licenses to city and town clerks and for his monthly reports required to be made to the commission, and," new.

⁴ Words "expressage and postage" new.

hundred and eighty-six of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

6. Carrying and exhibiting same. No person to whom a license has been issued shall be entitled to take wild animals, fowl or birds, or trap fur bearing animals in this state unless at the time of such taking he shall have such license on his person, and shall exhibit the same for inspection to any protector or other officer or other person requesting to see the same.²

§ 2. This act shall take effect immediately.

CHAPTER 38

AN ACT to amend the education law, in relation to the establishment of a department of extension teacher training at the State Normal School at Geneseo, in connection with the Craig Colony at Sonyea.

Became a law February 21, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 816 a.
added to
L. 1909,
ch. 21
(revision
of L. 1310,
ch. 140).

Section 1. Article thirty-two of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended by inserting therein a new section, to be known as section eight hundred and sixteen-a, and to read as follows:

§ 816-a. Department of extension teacher training in the State Normal School at Geneseo in connection with the Craig Colony at Sonyea. The commissioner of education shall establish a department of extension teacher training at the State Normal School at Geneseo in connection with the Craig Colony at Sonyea, which department shall conduct all educational activities at the Craig Colony at Sonyea. The members of the teaching staff employed at the Craig Colony schools when this act takes effect shall become a part of the teaching staff of the said normal school, and they and all other teachers, instructors and supervisors hereafter employed in such department shall be employed and classified under the provisions of the law relating to teachers in state normal schools and their salaries shall be fixed as therein provided, with proper deductions for maintenance which shall be furnished by the board of managers of Craig Colony for all such supervisors, instructors, teachers, or students as are assigned to the Craig Colony schools for teaching or observation. All instruction given in the said Craig Colony schools shall be under the direction of the principal of the State Normal

¹ Previously amended by L. 1913, ch. 508, L. 1916, ch. 521.

² Remainder of subdivision, requiring licensee to wear in a conspicuous place a button denoting possession of a license, omitted.

School at Geneseo, subject to the supervision of the commissioner of education.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

In effect
July 1,
1922.

CHAPTER 39

AN ACT making an appropriation for the contributions of the state to the counties for the construction and improvement of certain highways and county roads, in accordance with section three hundred and twenty-b of the highway law.

Became a law February 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two million two hundred and twenty-one thousand one hundred and sixty dollars (\$2,221,160), or so much thereof as may be necessary, is hereby appropriated from any moneys in the state treasury not otherwise appropriated, for contributions by the state, pursuant to section three hundred and twenty-b of the highway law, to the several counties, based upon the amount of taxes levied therein, county obligations or moneys made available and deposited with the county treasurers for the construction and improvement of highways or county roads pursuant to section three hundred and twenty-a of the highway law or any other general or special law authorizing the levy of county taxes or raising of funds by county obligations for the construction and improvement of highways or roads within the county, other than county highways. The moneys appropriated shall be contributed in amounts to be determined in the manner provided by section three hundred and twenty-b of the highway law and paid out in the manner therein provided.

§ 2. This act shall take effect immediately.

CHAPTER 40

AN ACT making appropriations for the maintenance and repair of improved state and county highways.¹

Became a law February 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several amounts named in this act, or so much thereof as may be necessary, are hereby appropriated from any moneys in the treasury not otherwise appropriated, together with any accrued interest on unexpended balances while in the hands of county treasurers, to be expended in accordance with the

Appropriation.

¹ Repealed by L. 1922, ch. 240, post.

provisions of chapter thirty of the laws of nineteen hundred and nine, as amended, being the highway law.

DEPARTMENT OF HIGHWAYS.

DIVISION No. 1.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number one. The following amounts to be made immediately available for the purposes herein indicated: Columbia county, seventy-six thousand seven hundred twenty-four dollars (\$76,724); Dutchess county, one hundred eighty-eight thousand twenty-seven dollars (\$188,027); Greene county, one hundred thirty-eight thousand nine hundred thirty-two dollars (\$138,932); Nassau county, thirty-four thousand six hundred forty-three dollars (\$34,643); Orange county, two hundred seventy-one thousand four hundred eighty-three dollars (\$271,483); Putnam county, fifty-five thousand eight hundred ten dollars (\$55,810); Rockland county, sixty-two thousand two hundred ninety-three dollars (\$62,293); Suffolk county, sixty-two thousand four hundred ninety-three dollars (\$62,493); Ulster county, two hundred twelve thousand nine hundred thirty-five dollars (\$212,935); Westchester county, one hundred ninety-one thousand six hundred forty-three dollars (\$191,643); Queens county, five hundred two dollars (\$502).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$62,735 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office	\$700 00	
Hired horses and vehicles and hired motor vehicles	9,674 00	
Traveling expenses	5,939 00	
Communication	776 00	
Rents — office	1,395 00	
Advertising and printing	340 00	
		\$18,824 00

(General charges—Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same \$4,500 00

Motor equipment and war tax 3,750 00

Boilers and engines 3,505 00

Heating kettles 1,110 00

Rollers 5,400 00

Distributors 1,750 00

Wagons 1,600 00

Mechanical loaders 900 00

Road machines 3,275 00

Tools and general plant 4,830 00

Repairs for motor vehicles and maintenance equipment 24,488 00

Motor vehicle insurance

Liability, property damage, collision and fire 8,000 00

Storehouse

Acquisition of site for and construction of 25,000 00

Storage rental 8,030 00

96,138 00

Total for Schedule B. \$114,962 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department 133,000 00

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 88,390 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 230,607 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics, chauffeurs, teams and trucks \$371,803 00

Industrial equipment**Rental of**

Rollers, crushers, distributors and
tools

17,400 00

Supplies for equipment

39,550 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous mate-
rials, cement, sulphite liquor, paint,
lumber, calcium chloride and gen-
eral plant

236,763 00

Drainage

Acquisition of right of way for.....

275 00

Total for Schedule F.....

665,791 00

Total for Division No. 1.....

\$1,295,485 00

DIVISION No. 2.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number two; and repair of wooden trestle bridge over South Bay, Lake Champlain, on state route number forty-eight. The following amounts to be made immediately available for the purposes herein indicated: Albany county, two hundred forty-seven thousand two hundred thirty-four dollars (\$247,234); Clinton county, fifty-three thousand seven hundred dollars (\$53,700); Essex county, ninety thousand dollars (\$90,000); Rensselaer county, two hundred sixteen thousand nine hundred fifty-two dollars (\$216,952); Saratoga county, one hundred sixty thousand one hundred fifteen dollars (\$160,115); Schenectady county, ninety-five thousand one hundred ten dollars (\$95,110); Warren county, forty-four thousand five hundred dollars (\$44,500); Washington county, one hundred one thousand nine hundred dollars (\$101,900).

SCHEDULE A.**Personal Service.****Salaries, temporary**

Engineering, supervision and inspection employees

\$40,280 00

SCHEDULE B.**Division Expenses.**

(Other than personal services.)

Supplies

Office

\$215 00

Hired horses and vehicles and hired motor vehicles	4,608 00	
Traveling expenses	2,807 00	
Communication	745 00	
Rents—office	950 00	
Advertising and printing	426 00	
		9,751 00
(General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$2,000 00	
Motor equipment and war tax.....	2,000 00	
Stone crushing plants	5,000 00	
Rollers	4,000 00	
Tools and general plant.....	7,000 00	
Repairs for motor vehicles and maintenance equipment	10,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	4,000 00	
Storehouse		
Acquisition of site for and construction of	1,000 00	
Storage rental	2,000 00	
		37,000 00
Total for Schedule B.....		\$46,751 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... 80,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department..... 318,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics, chauffeurs, teams and trucks.....\$297,480 00

Industrial equipment**Rental of**

Rollers, crushers, distributors and
tools 2,300 00

Supplies for equipment..... 28,900 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous ma-
terials, cement, sulphite liquor, paint,
lumber, calcium chloride and gen-
eral plant 165,400 00

Repair of wooden trestle bridge over
South bay, Lake Champlain, located
on state route number forty-eight, be-
tween highway numbers five thousand
five hundred and seventy-eight and
five thousand six hundred and thirty-
seven-a 30,000 00

Total for Schedule F..... 524,080.00

Total for Division No. 2.....\$1,009,511 00

DIVISION No. 3.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced, either by contract or directly by the department; highways to be surface treated, either by contract or directly by the department; highways to be reconstructed, either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number three. The following amounts to be made immediately available for the purposes herein indicated: Franklin county, sixty-four thousand one hundred forty-five dollars (\$64,145); Jefferson county, one hundred thirty-seven thousand four hundred eighty-one dollars (\$137,481); Lewis county, one hundred twenty-eight thousand six hundred seventy dollars (\$128,670); St. Lawrence county, one hundred sixty-eight thousand four hundred seventy-six dollars (\$168,476).

SCHEDULE A.**Personal Service.****Salaries, temporary**

Engineering, supervision and inspection em-
ployees \$27,400 00

SCHEDULE B.**Division Expenses.**

(Other than personal service.)

Supplies

Office \$447 00

Hired horses and vehicles and hired motor vehicles	4,700 00	
Traveling expenses	4,050 00	
Communication	1,110 00	
Rents — office	650 00	
Advertising and printing	740 00	
		11,697 00
(General charges — Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$2,000 00	
Motor equipment and war tax	2,000 00	
Mechanical loaders	3,000 00	
Distributors	1,200 00	
Rollers	5,500 00	
Concrete mixers	2,000 00	
Tools and general plant	6,000 00	
Repairs for motor vehicles and maintenance equipment	12,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	3,000 00	
Storehouse		
Acquisition of site for and construction of	10,000 00	
Storage rental	1,500 00	
		48,200 00
Total for Schedule B		\$59,897 00

SCHEDULE C.

For highways to be resurfaced, either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... 44,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 139,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics, chauffeurs, teams and trucks.....\$138,375 00

Industrial equipment

Rental of

Rollers, crushers, distributors and tools 3,500 00

Supplies for equipment 25,000 00

Materials

Including broken stone, sand, gravel, iron ore tailings, bituminous materials, cement, sulphite liquor, paint, lumber, calcium chloride and general plant 61,200 00

Total for Schedule F..... 228,075 00

Total for Division No. 3..... \$498,772 00

DIVISION No. 4.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number four. The following amounts to be made immediately available for the purposes herein indicated: Fulton county, forty-nine thousand seven hundred forty dollars (\$49,740); Hamilton county, thirty-one thousand five hundred seventy dollars (\$31,570); Herkimer county, eighty-six thousand nine hundred ninety-five dollars (\$86,995); Madison county, one hundred fifteen thousand nine hundred sixty dollars (\$115,960); Montgomery county, one hundred one thousand eight hundred forty-nine dollars (\$101,849); Oneida county, two hundred twenty-eight thousand sixty-nine dollars (\$228,069).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees \$30,178 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$85 00	
Hired horses and vehicles and hired motor vehicles	6,135 00	
Traveling expenses	2,286 00	
Communication	404 00	
Rents— office	570 00	
Advertising and printing	419 00	
		9,899 00
(General charges — Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to delivery of same	\$9,000 00	
Motor equipment and war tax.....	2,000 00	
Rollers	3,500 00	
Heating kettles	1,500 00	
Mechanical loaders	2,500 00	
Road machines	600 00	
Concrete mixers	1,000 00	
Distributors	2,000 00	
Tools and general plant	3,000 00	
Repairs for motor vehicles and maintenance equipment	10,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	5,000 00	
Storehouse		
Acquisition of site for and construction of	14,500 00	
Storage rental	2,000 00	
		56,600 00
Total for Schedule B.....		\$66,499 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... 95,000 00

SCHEDULE E.

For highways to be reconstructed either by contract
or directly by the department 126,200 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks..\$182,362 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 4,000 00

Supplies for equipment 18,000 00

Materials

Including broken stone, sand, gravel,
bituminous materials, cement,
paint, lumber and general plant.. 91,794 00

Drainage

Acquisition of right of way for.... 150 00

Total for Schedule F 296,306 00

Total for Division No. 4..... \$614,183 00

DIVISION No. 5.

For the maintenance and repair of state and county highways including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number five. The following amounts to be made immediately available for the purposes herein indicated: Broome county, one hundred seventy-five thousand seven hundred twenty-five dollars (\$175,725); Chenango county, one hundred sixty-five thousand six hundred forty dollars (\$165,640); Delaware county, one hundred thirty-seven thousand five hundred fifty dollars (\$137,550); Otsego county, ninety-one thousand four hundred twenty dollars (\$91,420); Schoharie county, forty-six thousand three hundred seventy dollars (\$46,370); Sullivan county, seventy-seven thousand six hundred fifty-five dollars (\$77,655).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employ-
ees \$33,633 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$332 00	
Hired horses and vehicles and hired motor vehicles	6,182 00	
Traveling expenses	3,146 00	
Communication	453 00	
Rents—office	800 00	
Advertising and printing	234 00	
		11,147 00
 (General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war materials turned over to New York State under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same.....	2,500 00	
Motor equipment and war tax.....	2,500 00	
Rollers	5,000 00	
Concrete mixers	350 00	
Spreader wagon (sand and stone)..	700 00	
Tools and general plant.....	4,050 00	
Repairs for motor vehicles and maintenance equipment	5,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	1,500 00	
Storehouse		
Acquisition of site for and construction of	10,500 00	
Storage rental	2,000 00	
		34,100 00
 Total for schedule B.....		\$45,247 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department.....

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... 52,600 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department..... 221,270 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks..\$203,610 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 2,000 00

Supplies for equipment 17,000 00

Materials

Including broken stone, sand, gravel,
slag, iron ore tailings, bituminous
materials, cement, paint, lumber,
calcium chloride and general plant. 119,000 00

Total for Schedule F..... \$341,610 00

Total for Division No. 5..... \$694,360 00

DIVISION No. 6.

For the maintenance and repair of state and county highways including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number six. The following amounts to be made immediately available for the purposes herein indicated: Cayuga county, forty-five thousand six hundred seventy-five dollars (\$45,675); Cortland county, ninety-four thousand four hundred ninety-five dollars (\$94,495); Onondaga county, two hundred four thousand four hundred thirty-five dollars (\$204,435); Oswego county, eighty-eight thousand one hundred seven dollars (\$88,107); Seneca county, twenty-five thousand two hundred seventy-five dollars (\$25,275); Wayne county, forty-three thousand six hundred five dollars (\$43,605).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees \$25,900 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	80 00	
Hired horses and vehicles and hired motor vehicles	4,100 00	
Traveling expenses	2,800 00	
Communication	360 00	
Rents—office	900 00	
Advertising and printing	50 00	
		8,290 00
(General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same.....	9,000 00	
Motor equipment and war tax.....	5,000 00	
Tools and general plant.....	10,000 00	
Repairs for motor vehicles and maintenance equipment	20,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	7,000 00	
Storehouse		
Acquisition of site for and construction of	14,500 00	
Storage rental	500 00	
		66,000 00
Total for Schedule B.....		\$74,290 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 53,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department..... 109,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks..\$168,002 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 1,000 00

Supplies for equipment 15,000 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous mate-
rials, cement, sulphite liquor,
paint, lumber, calcium chloride
and general plant 55,000 00

Total for Schedule F..... 239,002 00

Total for Division No. 6..... \$501,592 00

DIVISION No. 7.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number seven. The following amounts to be made immediately available for the purposes herein indicated: Genesee county, forty-one thousand six hundred fifty-five dollars (\$41,655); Livingston county, one hundred ninety-five thousand four hundred three dollars (\$195,403); Monroe county, two hundred seventy thousand five hundred ten dollars (\$270,510); Ontario county one hundred sixty-two thousand six hundred thirty-seven dollars (\$162,637); Orleans county, forty-five thousand dollars (\$45,000); Wyoming county, fifty thousand dollars (\$50,000).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection em-
ployees \$35,778 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$163 00	
Hired horses and vehicles and hired motor vehicles	6,059 00	
Traveling expenses	3,237 00	
Communication	803 00	
Rents—office	2,890 00	
Advertising and printing	325 00	
		\$13,477 00
(General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$4,500 00	
Motor equipment and war tax	3,000 00	
Rollers	6,000 00	
Distributors	1,500 00	
Concrete mixers	1,200 00	
Mechanical loaders	3,600 00	
Tools and general plant	3,605 00	
Repairs for motor vehicles and maintenance equipment	14,340 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	3,000 00	
Storehouse		
Acquisition of site for and construction of	3,000 00	
Storage rental	500 00	
		44,245 00
Total for Schedule B		\$57,722 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 93,808 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 280,500 00

SCHEDULE F.

General Maintenance and Repair.

Personal service	
Wages, temporary	
Foremen, laborers, mechanics,	
chauffeurs, teams and trucks....	\$176,008 00
Industrial equipment	
Rental of	
Rollers, crushers, distributors and	
tools	4,040 00
Supplies for equipment	14,828 00
Materials	
Including broken stone, sand, gravel,	
iron ore tailings, bituminous mate-	
rials, cement, sulphite liquor,	
paint, lumber, calcium chloride	
and general plant	102,371 00
Drainage	
Acquisition of right of way for.....	150 00
Total for Schedule F	297,397 00
Total for Division No. 7.....	\$765,205 00

DIVISION No. 8.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number eight. The following amounts to be made immediately available for the purposes herein indicated: Allegany county, one hundred sixty-two thousand nine hundred forty-seven dollars (\$162,947); Chemung county, one hundred twenty-five thousand four hundred thirty-eight dollars (\$125,438); Schuyler county, thirty-five thousand nine hundred twenty-five dollars (\$35,925); Steuben county, two hundred fifty-seven thousand two hundred ninety-seven dollars (\$257,297); Tioga county, eighty-five thousand nine hundred seventy-three dollars (\$85,973); Tompkins county, seventy-seven thousand five hundred seventy-seven dollars (\$77,577); Yates county, thirty-eight thousand nine hundred fifty-seven dollars (\$38,957).

SCHEDULE A.

Personal Service.

Salaries, temporary	
Engineering, supervision and inspection em-	
ployees	\$35,560 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$114 00	
Hired horses and vehicles and hired motor vehicles	5,014 00	
Traveling expenses	4,299 00	
Communication	856 00	
Rents—office	455 00	
Advertising and printing	362 00	
		11,100 00
(General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$4,000 00	
Motor equipment and war tax	4,000 00	
Rollers	12,000 00	
Road machines	2,800 00	
Tools and general plant	3,314 00	
Repairs for motor vehicles and maintenance equipment	12,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	4,000 00	
Storehouse		
Acquisition of site for and construction of	10,000 00	
Storage rental	4,000 00	
		56,114 00
Total for Schedule B	\$67,214 00	

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... 54,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 293,100 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks..\$169,840 00

Industrial equipment

Rental of

Rollers, crushers, distributors and

tools 5,000 00

Supplies for equipment 14,000 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, slag, bituminous
materials, cement, sulphite liquor,
paint, lumber, calcium chloride
and general plant..... 145,000 00

Total for Schedule F..... 333,840 00

Total for Division No. 8..... \$784,114 00

DIVISION No. 9.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number nine; and for the reconstruction of pavement on the viaduct on state highway number five thousand six hundred and sixty-three. The following amounts to be made immediately available for the purposes herein indicated: Cattaraugus county, eighty-three thousand six hundred thirty-three dollars (\$83,633); Chautauqua county, sixty-five thousand two hundred eighty dollars (\$65,280); Erie county, three hundred fifty-five thousand seven hundred eighty-five dollars (\$355,785); Niagara county, one hundred twelve thousand seventy-five dollars (\$112,075).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees \$29,692 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office \$262 00

Hired horses and vehicles and hired motor vehicles	4,210 00	
Traveling expenses	1,432 00	
Communication	456 00	
Rents — office	1,050 00	
Advertising and printing.....	791 00	
		\$8,201 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$5,000 00
Motor equipment and war tax	5,000 00
Storage tank and motor	1,300 00
Concrete mixers	1,105 00
Distributors	1,500 00
Rollers	4,500 00
Road machines	1,400 00
Tools and general plant	2,295 00

Repairs for motor vehicles and maintenance equipment	8,000 00
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Motor vehicle insurance

Liability, property damage, collision and fire	2,500 00
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Storehouse

Acquisition of site for and construction of	3,000 00
Storage rental	1,665 00

37,265 00

Total for schedule B.....	\$45,466 00
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SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department	
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SCHEDULE D.

For highways to be surface treated either by contract or directly by the department	24,200 00
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SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department	236,250 00
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SCHEDULE F.

General Maintenance and Repair.

Personal service	
Wages, temporary	
Foremen, laborers, mechanics,	
chauffeurs, teams and trucks..	\$137,000 00
Industrial equipment	
Rental of	
Rollers, crushers, distributors and	
tools	2,065 00
Supplies for equipment	13,900 00
Materials	
Including broken stone, sand, gravel,	
iron ore tailings, bituminous mate-	
rials, cement, sulphite liquor,	
paint, lumber, calcium chloride	
and general plant	108,000 00
Drainage	
Acquisition of right of way for.....	200 00
For the reconstruction of the pave-	
ment on the viaduct between Sta.	
568+66.3 and 579+17.4 on State	
Highway No. 5663	20,000 00
Total for Schedule F.....	\$281,165 00
Total for Division No. 9.....	\$616,773 00
Grand total, Divisions one to nine.....	<u>\$6,779,995 00</u>

Amounts
appropriated
make up
total to be
divided
among
counties.

§ 2. The amounts shown to be appropriated for expenditure in the several counties of the state make up the total appropriation to be divided among the counties for maintenance and repair purposes, and the itemized schedules attached hereto are for the purpose of indicating the manner in which the amount to be expended in each county was arrived at.

Amounts
to be
deposited
with
county
treasurers.
Counties
respon-
sible.

§ 3. The amounts hereby appropriated for use in the several counties of the state shall be deposited with the county treasurers of such counties as provided by the highway law. Each county of the state shall be responsible to the state for all funds or moneys deposited with the treasurer thereof under this act and an action to recover any loss to or of such funds or moneys may be brought against the county by the comptroller of the state of New York in a court of competent jurisdiction.

Additional
appropriation
for
use when
money for
county
expended.

§ 4. In addition to the amounts herein appropriated to be expended within the several counties of the state, there is also hereby appropriated the sum of seven hundred twenty thousand five dollars (\$720,005), being in lieu of the ten per centum which may be retained from appropriations made for mainte-

nance and repair of improved highways as provided by section one hundred and seventy-one of the highway law, which amount shall remain in the state treasury, and so much thereof as shall be necessary may be expended for use in any county when the money herein appropriated for such county has been expended or obligated. This sum shall be paid out by the state treasurer upon the warrant of the comptroller drawn upon the requisition of the state commission of highways, issued when it becomes necessary to expend for the maintenance and repair of improved state and county highways in any county a greater sum than that herein appropriated for use in said county.

§ 5. This act shall take effect immediately.

CHAPTER 41

AN ACT making an appropriation for the contributions of the state for the repair and improvement of town highways, in accordance with the requirements of section one hundred and one of the highway law, maintenance and repair of county roads, to meet the requirements of chapter one hundred and thirty-seven of the laws of nineteen hundred and eleven, and the repair and improvement of highways and bridges on Indian reservations, in accordance with section one hundred and fifty-nine of the highway law.

Became a law February 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two million three hundred and ninety-five thousand dollars (\$2,395,000) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, payable by the state treasurer on the warrant of the comptroller. Such sum or so much thereof as may be necessary shall be available for the contributions of the state to the several towns based upon the amount of taxes levied therein, for the repair and improvement of town highways, sluices, culverts and bridges having a span of less than five feet, in the proportions fixed by section one hundred and one of the highway law, and for complying with the requirements of such section.

Appropriation for state contributions for town highways.

§ 2. The sum of sixty thousand dollars (\$60,000) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, payable by the state treasurer on the warrant of the comptroller. Such sum or so much thereof as may be necessary shall be available for the contributions of the state to counties containing Indian reservations or reservation, or the minor portion of a reservation of an amount not less than thirty dollars per mile, based upon the entire mileage of the public highways, within the reservation in such county, pursuant to section one hundred and fifty-nine of the highway law.

Appropriation for state contributions for highways within Indian reservations.

§ 3. The sum of thirty thousand dollars (\$30,000) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, payable by the state treasurer on the warrant

Appropriation for state contributions.

tions for
county
roads.

of the comptroller. Such sum or so much thereof as may be necessary shall be available for the contributions of the state for the repair and maintenance of county roads as provided by chapter one hundred and thirty-seven of the laws of nineteen hundred and eleven.

§ 4. This act shall take effect immediately.

CHAPTER 42

AN ACT to amend section fifty of the conservation law, relating to federal co-operation in fire protection.

Became a law February 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 34
added to
L. 1911,
ch. 647,
§ 50, as
added by
L. 1916,
ch. 461.

Section 1. Section fifty of article four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," known as the conservation law, as added by chapter four hundred and fifty-one of the laws of nineteen hundred and sixteen, chapters seventy-one and two hundred and sixty-six of the laws of nineteen hundred and seventeen, and chapter five hundred and forty of the laws of nineteen hundred and nineteen, is hereby amended by adding a new subdivision, to be known as subdivision thirty-four, to read as follows:

34. May enter into cooperative agreements with the United States department of agriculture for the purpose of better protecting the forests of the state from fire. Moneys received from the United States government in accordance with such agreements shall be deposited with the state treasurer as custodian and may be checked out by him upon the warrant or order of the conservation commission. The provisions of section thirty-seven of the state finance law shall not apply to any moneys received pursuant to the provisions of this subdivision if used for the purposes indicated.

§ 2. This act shall take effect immediately.

CHAPTER 43

AN ACT by which the state of New York agrees with the state of New Jersey upon the comprehensive plan for the development of the port of New York, pursuant to the compact authorized by the two states and signed April thirtieth, nineteen hundred and twenty-one, and consented to and approved by congress and the president of the United States, August twenty-three, nineteen hundred and twenty-one, and authorizing and empowering the port of New York authority to effectuate the same, and making an appropriation therefor.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Whereas, The states of New York and New Jersey on the thirtieth of April, nineteen hundred and twenty-one, pursuant to chapter one hundred and fifty-four of the laws of nineteen hundred and twenty-one of New York and chapter one hundred and fifty-one of the laws of nineteen hundred and twenty-one of New Jersey, did enter into a compact or agreement which pledged the two states to faithful cooperation in the future planning and development of the port of New York, and which, furthermore, created the port of New York district, as therein described, and the port of New York authority, a body politic and corporate, as an instrumentality or agency of the two states to effectuate such pledge of cooperation;

Preamble.

And whereas, The said compact or agreement provides in article ten thereof that the " legislatures of the two states, prior to the signing of this agreement, or thereafter as soon as may be practicable, will adopt a plan or plans for the comprehensive development of the port of New York ";

Now, therefore (the state of New Jersey by appropriate legislation¹ concurring therein), the following be and it is hereby adopted as the comprehensive plan for the development of the port of New York under and pursuant to said compact or agreement:

Plan for development of port of New York.

Section 1. Principles to govern the development:

Principles to govern.

First. That terminal operations within the port district, so far as economically practicable, should be unified;

Second. That there should be consolidation of shipments at proper classification points so as to eliminate duplication of effort, inefficient loading of equipment and realize reduction in expenses;

Third. That there should be the most direct routing of all commodities so as to avoid centers of congestion, conflicting currents and long truck-hauls;

Fourth. That terminal stations established under the comprehensive plan should be union stations, so far as practicable;

¹ See Laws of New Jersey, 1922, ch. 9.

Fifth. That the process of coordinating facilities should so far as practicable adapt existing facilities as integral parts of the new system, so as to avoid needless destruction of existing capital investment and reduce so far as may be possible the requirements for new capital; and endeavor should be made to obtain the consent of local municipalities within the port district for the coordination of their present and contemplated port and terminal facilities with the whole plan.

Sixth. That freight from all railroads must be brought to all parts of the port wherever practicable without cars breaking bulk, and this necessitates tunnel connection between New Jersey and Long Island, and tunnel or bridge connections between other parts of the port;

Seventh. That there should be urged upon the federal authorities improvement of channels so as to give access for that type of waterborne commerce adapted to the various forms of development which the respective shorefronts and adjacent lands of the port would best lend themselves to;

Eighth. That highways for motor truck traffic should be laid out so as to permit the most efficient inter-relation between terminals, piers and industrial establishments not equipped with railroad sidings and for the distribution of building materials and many other commodities which must be handled by trucks; these highways to connect with existing or projected bridges, tunnels and ferries.

Ninth. That definite methods for prompt relief should be devised which can be applied for the better coordination and operation of existing facilities while larger and more comprehensive plans for future development are being carried out.

§ 2. The bridges, tunnels and belt lines forming the comprehensive plan are generally and in outline indicated on maps filed by the port of New York authority in the offices of the secretaries of the states of New York and New Jersey and are hereinafter described in outline.

§ 3. **Tunnels and bridges to form part of the plan.** (a) A tunnel or tunnels connecting the New Jersey shore and the Brooklyn shore of New York to provide through line connection between the transcontinental railroads now having their terminals in New Jersey with the Long Island railroad and the New York connecting railroad on Long Island and with the New York Central and Hudson River railroad and the New York, New Haven and Hartford railroad in the Bronx, and to provide continuous transportation of freight between the Queens, Brooklyn and Bronx sections of the port to and from all parts of the westerly section of the port, for all of the transcontinental railroads.

(b) A bridge and/or tunnel across or under the Arthur kill, and/or the existing bridge enlarged, to provide direct freight carriage between New Jersey and Staten Island.

(c) The location of all such tunnels or bridges to be at the shortest, most accessible and most economical points practicable, taking account of existing facilities now located within the port

Bridges,
tunnels
and belt
lines in-
dicated
on maps.

district and providing for and taking account of all reasonably foreseeable future growth in all parts of the district.

§ 4. **Manhattan service.** The island of Manhattan to be connected with New Jersey by bridge or tunnel, or both, and freight destined to and from Manhattan to be carried underground, so far as practicable, by such system, automatic electric as hereinafter described or otherwise, as will furnish the most expeditious, economical and practicable transportation of freight, especially meat, produce, milk and other commodities comprising the daily needs of the people. Suitable markets, union inland terminal stations and warehouses to be laid out at points most convenient to the homes and industries upon the island, the said system to be connected with all the trans-continental railroads terminating in New Jersey and by appropriate connection with the New York Central and Hudson River railroad, the New York, New Haven and Hartford and the Long Island railroads.

§ 5. **Belt lines.** The numbers hereinafter used correspond with the numbers which have been placed on the map of the comprehensive plan to identify the various belt lines and marginal railroads.

Number 1. **Middle belt line.** Connects New Jersey and Staten Island and the railroads on the westerly side of the port with Brooklyn, Queens, the Bronx and the railroads on the easterly side of the port. Connects with the New York Central railroad in the Bronx; with the New York, New Haven and Hartford railroad in the Bronx; with the Long Island railroad in Queens and Brooklyn; with the Baltimore and Ohio railroad near Elizabethport and in Staten Island; with the Central Railroad Company of New Jersey at Elizabethport and at points in Newark and Jersey City; with the Pennsylvania railroad in Newark and Jersey City; with the Lehigh Valley railroad in Newark and Jersey City; with the Delaware, Lackawanna and Western railroad in Jersey City and the Secaucus meadows; with the Erie railroad in Jersey City and the Secaucus meadows; with the New York, Susquehanna and Western, the New York, Ontario and Western and the West Shore railroads on the westerly side of the Palisades above the Weehawken tunnel.

The route of the middle belt line as shown on said map is in general as follows: Commencing at the Hudson river at Spuyten Duyvil running easterly and southerly generally along the easterly side of the Harlem river, utilizing existing lines so far as practicable and improving and adding where necessary, to a connection with Hell Gate bridge and the New Haven railroad, a distance of approximately seven miles; thence continuing in a general southerly direction, utilizing existing lines and improving and adding where necessary, to a point near Bay Ridge, a distance of approximately eighteen and one-half miles; thence by a new tunnel under New York bay in a northwesterly direction to a portal in Jersey City or Bayonne, a distance of approximately five miles, to a connection with the tracks of the Pennsylvania and Lehigh Valley railroads; thence in a generally north-

erly direction along the easterly side of Newark bay and the Hackensack river at the westerly foot of the Palisades, utilizing existing tracks and improving and adding where necessary, making connections with the Jersey Central, Pennsylvania, Lehigh Valley, Delaware, Lackawanna and Western, Erie, New York, Susquehanna and Western, New York, Ontario and Western, and West Shore railroads, a distance of approximately ten miles. From the westerly portal of the Bay tunnel and from the line along the easterly side of Newark bay by the bridges of the Central railroad of New Jersey (crossing the Hackensack and Passaic rivers) and of the Pennsylvania and Lehigh Valley railroads (crossing Newark bay) to the line of the Central railroad of New Jersey running along the westerly side of Newark bay and thence southerly along this line to a connection with the Baltimore and Ohio railroad south of Eilizabethport, utilizing existing lines so far as practicable and improving and adding where necessary, a distance of approximately twelve miles; thence in an easterly direction crossing the Arthur kill, utilizing existing lines so far as practicable and improving and adding where necessary, along the northerly and easterly shores of Staten Island to the new city piers and to a connection, if the city of New York consent thereto, with the tunnel under the Narrows to Brooklyn provided for under chapter seven hundred of the laws of the state of New York for nineteen hundred and twenty-one.

Number 2. A marginal railroad to the Bronx extending along the shore of the East river and Westchester creek connecting with the middle belt line (number one), and with the New York, New Haven and Hartford railroad in the vicinity of Westchester.

Number 3. A marginal railroad in Queens and Brooklyn extending along Flushing creek, Flushing bay, the East river and the upper New York bay. Connects with the middle belt line (number one), by lines number four, number five, number six and directly at the southerly end at Bay Ridge. Existing lines to be utilized and improved and added to and new lines built where lines do not now exist.

Number 4. An existing line to be improved and added to where necessary. Connects the middle belt line (number one), with the marginal railroad number three near its northeasterly end.

Number 5. An existing line to be improved and added to where necessary. Connects the middle belt line (number one), with the marginal railroad number three in Long Island City.

Number 6. Connects the middle belt line (number one), with the marginal railroad number three in the Greenpoint section of Brooklyn. The existing portion to be improved and added to where necessary.

Number 7. A marginal railroad surrounding the northerly and westerly shores of Jamaica bay. A new line. Connects with the middle belt line (number one).

Number 8. An existing line, to be improved and added to where necessary. Extends along the southeasterly shore of Staten Island. Connects with middle belt line (number one).

Number 9. A marginal railroad extending along the westerly shore of Staten Island and a branch connection with number eight. Connects with the middle belt line (number one), and with a branch from the outer belt line (number fifteen).

Number 10. A line made up mainly of existing lines, to be improved and added to where necessary. Connects with the middle belt line (number one) by way of marginal railroad number eleven. Extends along the southerly shore of Raritan bay and through the territory south of the Raritan river reaching New Brunswick.

Number 11. A marginal railroad extending from a connection with the proposed outer belt line (number fifteen) near New Brunswick along the northerly shore of the Raritan river to Perth Amboy, thence northerly along the westerly side of the Arthur kill to a connection with the middle belt line (number one) south of Elizabethport. The portion of this line which exists to be improved and added to where necessary.

Number 12. A marginal railroad extending along the easterly shore of Newark bay and the Hackensack river and connects with the middle belt line (number one). A new line.

Number 13. A marginal railroad extending along the westerly side of the Hudson river and the Upper New York bay. Made up mainly of existing lines — the Erie Terminals, Jersey Junction, Hoboken Shore, and National Docks railroads. To be improved and added to where necessary. To be connected with middle belt line (number one).

Number 14. A marginal railroad connecting with the middle belt line (number one), and extending through the Hackensack and Secaucus meadows.

Number 15. An outer belt line, extending around the westerly limits of the port district beyond the congested section. Northerly terminus on the Hudson river at Piermont. Connects by marginal railroads at the southerly end with the harbor waters below the congested section. By spurs connects with the middle belt line (number one) on the westerly shore of Newark bay and with the marginal railroad on the westerly shore of Staten Island (number nine).

Number 16. The automatic electric system for serving Manhattan Island. Its yards to connect with the middle belt line and with all the railroads of the port district. A standard gauge underground railroad deep enough in Manhattan to permit of two levels of rapid transit subways to pass over it. Standard railroad cars to be brought through to Manhattan terminals for perishables and food products in refrigerator cars. Cars with merchandise freight to be stopped at its yards. Freight from standard cars to be transferred onto wheeled containers, thence to special electrically propelled cars which will bear it to Manhattan. Freight to be kept on wheels between the door of the

standard freight car at the transfer point and the tail board of the truck at the Manhattan terminal or the store door as may be elected by the shipper or consignee, eliminating extra handling.

Union terminal stations to be located on Manhattan in zones as far as practicable of equal trucking distance, as to pickups and deliveries, to be served by this system. Terminals to contain storage space and space for other facilities. The system to bring all the railroads of the port to Manhattan.

Location,
system
and char-
acter of
improve-
ments,
how de-
termined.

§ 6. The determination of the exact location, system and character of each of the said tunnels, bridges, belt lines, approaches, classification yards, warehouses, terminals or other improvements shall be made by the port authority after public hearings and further study, but in general the location thereof shall be as indicated upon said map, and as herein described.

Right to
modify
plan, re-
served.

§ 7. The right to add to, modify or change any part of the foregoing comprehensive plan is reserved by each state, with the concurrence of the other.

Port of
New York
authority
directed to
proceed
with develop-
ment;
powers
and duties.

§ 8. The port of New York authority is hereby authorized and directed to proceed with the development of the port of New York in accordance with said comprehensive plan as rapidly as may be economically practicable and is hereby vested with all necessary and appropriate powers not inconsistent with the constitution of the United States or of either state, to effectuate the same, except the power to levy taxes or assessments. It shall request the congress of the United States to make such appropriations for deepening and widening channels and to make such grants of power as will enable the said plan to be effectuated. It shall have power to apply to all federal agencies, including the interstate commerce commission, the war department, and the United States shipping board, for suitable assistance in carrying out said plan. It shall cooperate with the state highway commissioners of each state so that trunk line highways as and when laid out by each state shall fit in with said comprehensive plan. It shall render such advice, suggestion and assistance to all municipal officials as will permit all local and municipal port and harbor improvements, so far as practicable, to fit in with said plan. All municipalities within the district are hereby authorized and empowered to cooperate in the effectuation of said plan, and are hereby vested with such powers as may be appropriate or necessary so to cooperate. The bonds or other securities issued by the port authority shall at all times be free from taxation by either state. The port authority shall be regarded as the municipal corporate instrumentality of the two states for the purpose of developing the port and effectuating the pledge of the states in the said compact, but it shall have no power to pledge the credit of either state or to impose any obligation upon either state, or upon any municipality, except as and when such power is expressly granted by statute, or the consent by any such municipality is given.

Municipalities
authorized
to co-
operate.

Bonds free
from
taxation.

Port au-
thority
deemed
municipal
corporate
instru-
mentality.
Powers to
impose
obligations on
states.

Appropriation.

§ 9. The sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury not otherwise appropriated,

for the expenses of the port authority. The moneys hereby appropriated shall be paid out by the state treasurer on the warrant of the comptroller upon vouchers audited by the chairman of the port authority.

§ 10. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately. Inconsistent acts.

CHAPTER 44

AN ACT to amend chapter fifty-three of the laws of eighteen hundred and twenty-one, entitled "An act to incorporate the female academy of the city of Albany," generally.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections two and three of chapter fifty-three of the laws of eighteen hundred and twenty-one, entitled "An act to incorporate the Female Academy in the city of Albany," as amended by chapter fifteen of the laws of nineteen hundred and six, are hereby repealed and two new sections inserted in place thereof, to read as follows: L. 1921, ch. 53, §§ 2, 3, as amended by L. 1906, ch. 15, repealed: new §§ 2, 3 added.

§ 2. There shall hereafter be not less than five nor more than twenty-five trustees of said corporation and the trustees thereof now in office may fix the number, within these limitations, by resolution of the board. The number fixed by such resolution shall be elected by said board at the next annual meeting to serve for such terms as may be provided for in the by-laws. Trustees; number, election, terms.

§ 3. The trustees may in the by-laws fix the time and place in the city of Albany for holding the annual meeting for the election of trustees and officers. The said board shall have power to elect a president, a vice-president, a secretary, a treasurer of its endowment fund, a treasurer of the academy and such other officers and agents as it deems necessary for the proper transaction of its business. The said board of trustees shall have power of perpetual succession and may at any time fill vacancies in the board or in any of its offices. The said board shall also have power to elect from its own members an executive council of not less than five trustees, who in intervals between meetings of the trustees, may transact such business of the corporation as the board may authorize and such board may by resolution determine and fix a quorum, not less than five members, for each regular or special meeting of such trustees. Annual election. Officers. Vacancies. Executive council.

§ 2. Sections five and six of such act are hereby repealed and two new sections inserted in place thereof, to read as follows: §§ 5, 6 repealed: new §§ 5, 6 added.

§ 5. The said board of trustees may appoint a principal and teachers of the academy and such other officers and employees as it may deem necessary and fix their respective compensations and such principal, teachers, officers and employees or any of them at its pleasure dismiss and discharge and appoint others in their stead. Principal, teachers, employees.

Who
deemed
members
of cor-
poration.
Eligibility
of trustee.
.

Inconsist-
ent acts.

§ 6. No person shall hereafter be deemed to be a member of said corporation except the duly elected trustees thereof during their respective terms of office. Any person who the trustees deem to be interested in the success of the objects for which said academy was organized and is conducted is eligible to be elected a trustee of said corporation.

§ 3. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAPTER 45

AN ACT for the relief of the town of Johnstown, in the county of Fulton.
Became a law February 24, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Account
of unpaid
taxes for
1915-1920.

To be
added to
assess-
ment-roll
for 1922.

Reassess-
ment and
collection.

Section 1. The supervisor of the town of Johnstown, in the county of Fulton, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen, and nineteen hundred and twenty upon lands of residents, nonresidents and corporations in said town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment-roll of the said town of Johnstown for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them thereon as relieved taxes of such year.

§ 2. The board of supervisors of Fulton county shall cause to be reassessed and levy upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

§ 3. This act shall take effect immediately.

CHAPTER 46

AN ACT for the relief of the town of Broadalbin, in the county of Fulton.
Became a law February 24, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Account
of unpaid
taxes for
1915-1920.

Section 1. The supervisor of the town of Broadalbin, in the county of Fulton, shall cause to be made a correct account of the

unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen, and nineteen hundred and twenty upon lands of residents, nonresidents and corporations in said town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment roll of the said town of Broadalbin for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them thereon as relieved taxes of such year.

To be added to assessment roll for 1922.

§ 2. The board of supervisors of Fulton county shall cause to be reassessed and levy upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

Reassessment and collection.

§ 3. This act shall take effect immediately.

CHAPTER 47

AN ACT for the relief of the town of Perth, in the county of Fulton.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The supervisor of the town of Perth, in the county of Fulton, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen, and nineteen hundred and twenty upon lands of residents, nonresidents and corporations in said town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment roll of the said town of Perth for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them thereon as relieved taxes of such year.

Account of unpaid taxes for 1915-1920.

To be added to assessment roll for 1922.

§ 2. The board of supervisors of Fulton county shall cause to be reassessed and levy upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

Reassessment and collection.

§ 3. This act shall take effect immediately.

CHAPTER 48

AN ACT in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws.

Became a law February 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER 69 OF THE CONSOLIDATED LAWS.

FARMS AND MARKETS LAW.

- Article 1. Short title; definitions; matters of public interest (§§ 1-3).
2. Department of farms and markets; jurisdiction; general powers and duties (§§ 4-31).
 3. Investigation; practice and procedure; violations; penalties (§§ 32-45).
 4. Dairy products (§§ 46-71).
 5. Diseases of domestic animals; calves and veal; pure bred stock; certificates of registry (§§ 72-96).
 6. Licensing of stallions and breeding of horses (§§ 97-105).
 7. Licensing of dogs and protection of domestic animals therefrom (§§ 106-127).
 8. Sale and analysis of concentrated commercial feeding stuffs (§§ 128-135).
 9. Inspection and sale of seeds (§§ 136-142).
 10. Sale and analysis of commercial fertilizers (§§ 143-147).
 11. Prevention of fraud in sale of insecticides and fungicides (§§ 148-151).
 12. Adulteration and sale of turpentine and linseed oil (§§ 152-156).
 13. Apples; peaches; evaporated apples (§§ 157-160).
 14. Sale of fruit-bearing trees; prevention of disease in trees and plants; insect pests (§§ 161-172).
 15. Prevention of disease among bees (§§ 173-175).
 16. Weights and measures (§§ 176-197).
 17. Adulteration, packing and branding of food and food products (§§ 198-214).
 18. Adulteration, branding and sale of hops, hay, ginseng, coal, coke, charcoal and thread (§§ 215-229).
 19. Cold storage (§§ 230-243).
 20. Sale of farm products on commission (§§ 244-251).*
 21. Licensing of milk gathering stations (§§ 252-258).
 22. Departments of markets in cities (§§ 259-279).
 23. Experiment stations; institution farms (§§ 280-285).

* So in original. [Does not conform to section heading.]

Article 24. Agricultural societies and associations (§§ 286-291).

25. Saving clauses; laws repealed; when to take effect (§§ 292-298).*

ARTICLE 1.

Short Title; Definitions; Matters of Public Interest.

Section 1. Short title.

2. Definitions.

3. Matters of public interest.

Section 1. **Short title.** This chapter shall be known as the Source.—
Farms and
markets
law, § 1.

§ 2. **Definitions.** When used in this chapter, unless otherwise expressly stated, or unless the context or subject matter otherwise requires: Source.—
Farms and
markets
law, § 2.

1. "Department" means the state department of farms and markets;

2. "Council" means the council of farms and markets;

3. "Commissioner" means the commissioner of farms and markets.

4. The terms "food," "foods," and "food products," shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound;

5. The production of foods means the producing of food upon the farm or elsewhere by the tillage of the soil, or other agricultural, horticultural or dairying processes and shall also include the manufacture of foods.

6. "Farm product" means any agricultural, dairy or horticultural product, or any product designed for food manufactured or prepared principally from an agricultural, dairy or horticultural product.

§ 3. **Matters of public interest.** The production, manufacturing, marketing, storing and distribution of food, and of all the instrumentalities used in the production thereof, including fertilizers, feeding stuffs, materials, apparatus and machinery used or needed in connection therewith, are matters of public interest and proper subjects for investigation, encouragement, development and regulation by the state to secure an abundant supply of pure and wholesome food, to protect the health of the inhabitants of the state, to secure the exchange of such food and instrumentalities upon a fair basis and at market prices uncontrolled by speculation, to prevent frauds in the traffic therein, and so far as may be to eliminate waste and loss in distribution thereof. Source.—
Farms and
markets
law, § 3.

ARTICLE 2.

Department of Farms and Markets; Jurisdiction; General Powers and Duties.

Section 4. Department of farms and markets.

5. Council of farms and markets; appointment.

6. Removal of members of council.

* So in original. [Does not conform to section heading.]

- Section 7. Organization of council; committees.**
8. Meetings of council.
 9. Powers and duties of council.
 10. Expenses of members of council.
 11. Commissioner of farms and markets.
 12. Assistant commissioners.
 13. Secretary.
 14. Counsel.
 15. Bureaus.
 16. Confidential positions.
 17. Other officers and employees.
 18. Oaths of office.
 19. Salaries of commissioner and officers; expenses.
 20. Office of department.*
 21. Seal of department.
 22. General power and duty of department.*
 23. Delegation of powers.
 24. Rules of department.
 25. Publication of rules.
 26. Access to place of business.
 27. Power to administer oaths and compel testimony.
 28. Records, documents and papers of department.
 29. Publication of department bulletins; publications and reports.
 30. Annual report.*
 31. Transfer of property, records and appropriations.

Source.—
Farms and
markets
law, § 10.
Source.—
Farms and
markets
law, § 11.

§ 4. Department of farms and markets. The department of farms and markets is continued.

§ 5. Council of farms and markets; appointment. The council of farms and markets shall consist of one member from the state at large, the commissioner of public markets of the city of New York, if any, and one member from each of the judicial districts of the state. All vacancies in the council, either for full or for unexpired terms, shall be so filled that there shall always be in the membership of the council at least one resident of each of the judicial districts.

The members of such council in office at the time this chapter takes effect shall hold office until the expiration of their respective terms. Their successors shall be elected by the legislature in joint session in the second week in February, on or before the fourteenth day of such month, for terms of ten years beginning on April first following their election. Such election shall be in the manner provided by law for the election of regents of the university.

A vacancy in the office of members of such council for a cause other than the expiration of term shall be filled for the unexpired term by an election at the session of the legislature immediately following such vacancy, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by the legislature during such session.

* So in original. [Does not conform to section heading.]

§ 6. **Removal of members of council.** The members of the council may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if a majority of all the members elected to the senate shall concur therein. The proceedings for such removal shall be the same as those prescribed by law for the removal of elective state officers, and the provisions of the public officers law relative thereto shall apply to the removal of members of the council. Source.—Farms and markets law, § 12.

§ 7. **Organization of council; committees.** The council shall elect one of its members as president, and one of its members as vice-president. The president, and in his absence the vice-president, shall preside at all meetings of the council. The council may provide for standing and other committees, to consist of such number of members and to perform such duties as may be prescribed by its rules. Source.—Farms and markets law, § 12.

§ 8. **Meetings of council.** The council shall hold regular meetings at such times and places as the council may direct, and special meetings when authorized and called as prescribed in the rules of the council. Source.—Farms and markets law, § 14.

§ 9. **Powers and duties of council.** In addition to the powers and duties specifically prescribed by this chapter, the council shall consider all matters submitted to it by the commissioner in reference to his powers and duties or the general policy of the department, and advise the commissioner with respect thereto. It may also in an advisory capacity make such suggestions to the commissioner with respect to the exercise of his powers or the performance of his duties, or in respect of the affairs of the department, as it deems advisable. Source.—Farms and markets law, § 14a.

§ 10. **Expenses of members of council.** Each member of the council shall be paid his necessary traveling and other expenses incurred while in attendance at meetings of the council at Albany or elsewhere, or while otherwise engaged in the performance of his official duties. Source.—Farms and markets law, § 17.

§ 11. **Commissioner of farms and markets.** The commissioner of farms and markets shall be a person qualified by training and experience for the duties of his office. The commissioner of farms and markets in office at the time this chapter takes effect shall continue in office until his successor is appointed. His successor shall be appointed by the council. The commissioner shall hold office during the pleasure of the council. The commissioner shall be the chief executive officer of the department, and, subject to the provisions of this chapter, shall be responsible for the enforcement and carrying into effect of the laws, rules and orders pertaining to the matters which are assigned to the department as provided in this chapter. He shall have the supervision and direction of all officers and employees of the department and of the affairs of the department. Source.—Farms and markets law, § 22.

§ 12. **Assistant commissioners.** The commissioner of farms and markets shall appoint and may at pleasure remove two assistant commissioners of farms and markets and assign to such assistant commissioners the work which shall be under their Source.—New.

repective supervision. Each of such assistant commissioners shall be a person qualified by training and experience for the performance of the duties so assigned to him.

Source.—
Farms and
markets
law, § 33.
§ 13. **Secretary.** There shall be a secretary of the department to be appointed by the commissioner and who shall serve during the pleasure of the commissioner.

Source.—
Farms and
markets
law, § 34.
§ 14. **Counsel.** There shall be a counsel of the department to be appointed by the commissioner and who shall serve during the pleasure of the commissioner. The counsel of the department shall represent and appear for the department in all actions and proceedings involving any question under this chapter or within the jurisdiction of the department under any general or special law or under or in reference to any act, order or proceeding of or before the commissioner, and shall, when directed, intervene, if possible, in behalf of the department in any action or proceeding involving or relating to any matter within the jurisdiction or powers of the department as herein prescribed, except that the attorney-general of the state shall continue to have direct charge of and bring such actions as he may deem necessary for any and all violations of this chapter. The said counsel shall, also, act as counsel for any officer of the department in the conduct of a hearing, investigation or inquiry instituted under authority of the department or as provided in this chapter. He shall advise the council, the commissioner or any officer of the department, when so requested, in regard to all matters in connection with their powers and duties, and perform generally all duties and services as counsel of the department which may reasonably be required of him.

Source.—
Farms and
markets
law, § 35.
§ 15. **Bureaus.** Existing bureaus in the department are continued until consolidated or abolished pursuant to this section. The commissioner may establish such bureaus as may be necessary for the administration and operation of the department and the proper exercise of its powers and the performance of its duties, under this chapter, and may, from time to time, consolidate or abolish such bureaus. The commissioner may determine the official functions of each bureau. There shall be a director of each bureau to be appointed by the commissioner and who shall serve during the pleasure of the commissioner. The directors of bureaus in the department who are in office when this chapter takes effect shall continue in office during the pleasure of the commissioner.

Source.—
Farms and
markets
law, § 37.
§ 16. **Confidential positions.** The assistant commissioners, secretary, counsel and directors of bureaus shall be deemed to occupy confidential positions to the commissioner, and may be appointed without competitive examination.

Source.—
Farms and
markets
law, § 38.
§ 17. **Other officers and employees.** There shall be such agents, inspectors, chemists, experts, statisticians, accountants and other assistants and employees, as the commissioner shall deem necessary for the exercise of the powers and the performance of the duties of the department under this chapter.

Such officers and employees shall be appointed by the commissioner and hold office during the pleasure of the commissioner. The officers and employees of the department who are in office when this chapter takes effect shall continue in office during the pleasure of the commissioner.

The commissioner may transfer officers or employees from their positions to other positions in the department, or abolish or consolidate such positions.

§ 18. **Oaths of office.** Each member of the council, the commissioner, the assistant commissioners, the counsel and the secretary shall, before entering upon the duties of their offices, take and subscribe the constitutional oath of office. Such oaths shall be filed in the office of the secretary of state.

Source.—
Farms and
markets
law, § 24.

§ 19. **Salaries of commissioner and officers; expenses.** The annual salary of the commissioner of farms and markets shall be ten thousand dollars. The annual salaries and compensation of the assistant commissioners, the counsel, secretary and all other officers and employees of the department shall be fixed by the commissioner within the limits of appropriations made therefor.

Source.—
Farms and
markets
law, § 22.

The reasonable and necessary traveling and other expenses of the commissioner, assistant commissioners, secretary, counsel and other officers and employees of the department, while actually engaged in the performance of their duties, outside of the city of Albany, or if any such officer or employee be in charge of or regularly employed at a branch office of the department, the reasonable and necessary traveling and other expenses outside of the place in which such branch office is located, shall be paid by the state treasurer upon the audit of the comptroller, upon vouchers approved by the commissioner.

§ 20. **Offices of department.** The principal office of the department shall be in the city of Albany in rooms to be designated by the trustees of public buildings as provided by law. Branch offices shall be established and maintained by the department in such places as the commissioner may determine. The offices shall be supplied with all necessary books, stationery, office equipment and furniture, to be furnished and paid for in the manner provided by law.

Source.—
Farms and
markets
law, § 18.

§ 21. **Seal of department.** The department shall have an official seal, to be prepared and furnished by the secretary of state, as provided by law. Such seal shall be used for the authentication of the orders and proceedings of the commissioner and for such other purposes as the commissioner may prescribe.

Source.—
Farms and
markets
law, § 19.

§ 22.¹ **General powers and duties of department.** The department through the commissioner shall have power to:

Source.—
Farms and
markets
law, § 30.
Subd. 25
from
general
business
law, § 20a.

1. Execute and carry into effect the laws of the state and the rules of the department, relative to agriculture, horticulture, farm and dairy products, and the production, transportation, storage, marketing and distributing of food; enforce and carry into effect the provisions of the laws of the state relative to weights and measures.

¹ Section 22 is amended by L. 1922, ch. 367, post.

2. Aid in the promotion and development of the agricultural resources of the state and the improvement of the conditions of rural life; the improvement of the fertility and productiveness of farm lands and the restoration to fertility and productiveness of unoccupied and unproductive land; the settlement of farms and the supply of farm labor; the stocking of farms with meat-producing and dairy animals and promoting the production of cereals, fruits and vegetables, and co-operate with county farm bureaus, and with agricultural, dairying and horticultural associations or corporations and other agencies organized for any or all of such purposes.

3. Investigate the cost of food production and marketing in all its phases.

4. Investigate the sources of food supply for the state, the production, transportation, storage, marketing and distribution of food sold, offered for sale, stored or held within the state, the cost of transportation to the leading centers of population and of distribution to consumers.

5. Collect and disseminate accurate data and statistics as to the food produced, stored or held within the state, the quantities available from time to time and the location thereof, and so far as practicable and available collect such like statistics from without the state, as are of value to producers and consumers within the state.

6. Investigate and recommend useful methods of co-operative production, marketing and distribution of foods within the state.

7. Aid in the organization and operation of co-operative associations and corporations among producers and consumers of farm products, and also aid in the organization and operation of co-operative associations, corporations or other agencies for the purpose of increasing the production, improving the quality, grading or bringing together of farm products for wholesale marketing.

8. Co-operate with and aid farmers and other producers of food, and distributors and consumers thereof, in improving and maintaining economic and efficient systems of production, storage, distribution and marketing, and in reaching advantageous markets.

9. Acquire and disseminate accurate information as to market prices of food products in the markets of the state and any other markets, when in the judgment of the commissioner such information will be valuable to the producers or consumers of the state.

10. Acquire and publish useful information to facilitate transportation, to avoid delays therein and upon request advise shippers or purchasers as to the most direct and expeditious route of shipment to market.

11. Co-operate with the public service commissions with the view of obtaining suitable, expeditious and economical facilities for the shipment of food, and recommend as to the action to be taken by such commissions to avoid and prevent unfair discrimination in such shipment and unreasonable delay in the

transportation thereof, and to obtain fair and reasonable rates for such transportation.

12. Investigate delays in transportation, and in case food is likely to spoil for lack of ready market, take such action as seems advisable for facilitating the sale thereof.

13. Investigate restraints of trade or unlawful combinations to fix prices.

14. Investigate as to the needs of terminal, dock and other distributing facilities for the delivery and distribution of foods at the centers of population, and the establishment and operation of co-operative or public abattoirs for the slaughter of animals and poultry for food purposes; and advise and co-operate with corporations and municipalities or other agencies to promote their establishment, construction or acquisition for the public use and make recommendations as to the conduct thereof.

15. Advise and co-operate in establishing local markets, and warehouses for assembling, grading, packing and storing food or farm products, whenever in the judgment of the commissioner the public interests require such establishment.

16. Co-operate with producers in the conduct of experiments and disseminate information as to producing, assembling, grading, packing, distributing and selling farm products, so as to demonstrate economic and efficient methods, and to standardize the grades of such products and determine the cost of such production, assembling, grading, packing, distribution and sale.

17. Investigate plans to be established by law for the purpose of securing an ample supply of pure milk in centers of population upon an economic basis of distribution and to aid in the accomplishment of such purpose within the provisions of existing law.

18. Ascertain the names and addresses of producers, manufacturers, importers and distributors of food, the kind of food produced, manufactured, imported or distributed by such persons, and to publish the same whenever in the judgment of the commissioner public interests require or, upon request, when in the public interest, supply lists of such persons.

19. Make such recommendations as in the judgment of the commissioner will stimulate and increase the production of food and co-operate with public or private agencies for that purpose.

20. Act as mediator or arbitrator, when jointly invited, in any controversy or issue that may arise between producers and distributors of food.

21. Investigate, when deemed advisable, the conduct and methods of exchanges and boards of trade within the state for the purchase and sale of food.

22. Collect and publish data concerning the purity, wholesomeness, economic value and the nutritious and hygienic properties of food produced, sold or available for sale within the state, and for such purpose to take, examine and analyze samples of such food.

23. Investigate deceptions in the quality, quantity or character of foods produced, stored, sold or offered for sale within the state, including the adulteration and misbranding thereof.

24. Co-operate with local health departments and departments of markets in preventing the production, manufacture, sale or offering for sale of fraudulent, deleterious or unwholesome food.

25. Inspect and determine the grade and condition of farm produce both at shipping points and receiving centers.

26. Investigate and take action to prevent illegal acts or practices in the sale or distribution of food or of fertilizers, feeding stuffs, materials, apparatus and machinery or other instrumentalities used or needed for the production, marketing and distribution of food.

Source.—
Farms and
markets
law, § 15.

§ 23. **Delegation of powers.** The commissioner may delegate any of his powers to, or direct any of his duties to be performed by, an assistant commissioner or the director of a bureau and, except where it is otherwise provided in this chapter or the context otherwise requires, may delegate any of such powers to any officer or employee of the department.

Whenever by the education law or other statute the commissioner is made a member by virtue of his office of the board of managers or trustees or other governing body of a state institution, he may in writing authorize and empower an assistant commissioner, the secretary of the department or the director of a bureau to act in his place and stead at any meeting or meetings of any such board or governing body.

Source.—
Farms and
markets
law, § 31.
Subds. 4, 5
from
general
business
law, § 20a,
subd. 5,
§ 18.

§ 24. **Rules of department.** Subject and in conformity to this chapter and the constitution and laws of the state, the commissioner may enact, amend and repeal necessary rules which shall

1. Regulate and control the transaction of business by the department, provide for the exercise of the powers and the performance of the duties of the department and prescribe the powers and duties of the bureaus and of the directors of bureaus and other officers and employees thereof;

2. Provide for carrying into effect the provisions of this chapter and of the laws of the state in respect of food and food traffic;

3. Regulate the conduct of investigations, inquiries and hearings authorized by this chapter and prescribe necessary forms and notices;

4.² Determine the manner of grading, packing, handling, storage and sale of food and food products within the state;

5. Establish uniform tolerances or amounts of reasonable variation for containers of food and provide uniform regulations for carrying out the provisions of this chapter in relation to such containers.

6. Provide generally for the exercise of the powers and performance of the duties of the department as prescribed in this chapter and the laws of the state and for the enforcement of their provisions and the provisions of the rules enacted as herein provided.

The rules of the department in force at the time this chapter takes effect shall continue as the rules of the department, until amended or repealed by the commissioner.

² Subd. 4 is amended by L. 1922, ch. 367, post.

§ 25. **Publication of rules.** Every rule or amendment or repeal of a rule affecting the interpretation, execution or application of this chapter shall be promptly published in the bulletins of the department and once in the state paper. Every such rule, amendment or repeal shall, unless otherwise prescribed by the commissioner take effect twenty days after publication in the state paper, and shall be certified by the commissioner, an assistant commissioner or the secretary of the department and filed with the secretary of state.

Source.—
Farms and
markets
law, § 23.

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§ 26. **Access to place of business.** The members of the council, the commissioner, each assistant commissioner and the directors, counsel, experts, chemists, agents and other officers and employees of the department shall have full access to all places of business, factories, farms, buildings, carriages, cars and vessels used in the production, manufacture, storage, sale or transportation within the state of any dairy products or any imitation thereof, or of any article or product with respect of which any authority is conferred by this chapter on the department. They may examine and open any package or container of any kind containing or believed to contain any article or product, which may be manufactured, sold or exposed for sale in violation of the provisions of this chapter, or of the rules of the department, and may inspect the contents therein, and take therefrom samples for analysis.

Source.—
Farms and
markets
law, § 24.

§ 27. **Power to administer oaths and compel testimony.** A member of the council, the commissioner, an assistant commissioner, the secretary or counsel of the department, or any other officer or employee duly authorized by the commissioner, may administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers and duties of the department under this chapter. The commissioner, or an assistant commissioner may subpoena and require the attendance of witnesses and the production of books, papers and documents pertaining to the investigations and inquiries which such commissioner or assistant commissioner is authorized to conduct, and examine them in relation to any matter to be investigated by them and issue commissions for the examination of witnesses who are out of the state or unable to attend or excused from attendance.

Source.—
Farms and
markets
law, § 25.

Any person who shall wilfully testify falsely as to any material matter pending in an investigation or proceeding under this chapter shall be guilty of and punishable for perjury.

An officer who serves the subpoenas issued as above provided and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil actions in courts of record, to be audited and paid in the same manner as other expenses of the department.

§ 28. **Records, documents and papers of department.** All proceedings, documents, papers and records filed or deposited with the department relating to matters within its jurisdiction and powers shall be public records; except such portions thereof as are received and accepted by the commissioner, as being of a confidential nature which when so received and accepted shall

Source.—
Farms and
markets
law, § 26.

not be subject to subpoena. Copies of all official documents and orders so filed or deposited, certified by the commissioner, an assistant commissioner or the secretary under the seal of the department to be true copies of the originals, shall be evidence in like manner as the originals.

Source.—
Farms and
markets
law, § 36.

§ 29. **Publication of department bulletins, publications and reports.** There may be published by the department from time to time bulletins or other publications and reports containing accurate data, statistics and information.

1. As to agriculture, agricultural production, agricultural labor and the agricultural conditions of the state, and the development and improvement thereof, with a view of increasing farm production and values;

2. As to the sources, supply and prices of foods, their storage and accumulation at different places, and the quantities and location of the available supply thereof;

3. As to the market prices of foods;

4. As to facilities afforded for transportation, marketing and distribution of foods within the state;

5. As to matters pertaining generally to the production of foods, the actual food value of articles used as foods, and the sale and distribution thereof to the consumers, which in the opinion of the commissioner will prove valuable or of interest to the public;

6. As to investigations, hearings and inquiries conducted as provided in this chapter, the conclusions reached as to the matters involved therein, and the orders and recommendations made as a result thereof;

7. As to any other matter which the commissioner deems proper.

Such bulletins, publications and reports and the information contained therein shall be published and distributed in the manner deemed best by the commissioner for the dissemination of knowledge as to the agricultural and dairy interests of the state and the production, sale, purchase, storage, marketing and distribution of foods, and the economic and food value of articles used as food. The cost of publishing such bulletins, publications and reports shall be paid in the same manner as other expenses of the department out of appropriations made therefor. Copies of the bulletins, publication and reports of the department may also be sold to the public at the estimated cost thereof, in accordance with a schedule of charges which the commissioner is hereby authorized to adopt.

Source.—
Farms and
markets
law, § 37.

§ 30. **Annual reports.** The commissioner shall cause to be prepared and submitted to the legislature each year, a report of the transactions of the department, including such part of the acts and proceedings of the department as he deems advisable to include therein, together with such information data and statistics in the possession of the department, as the commissioner shall deem of value to the legislature and the people of the state. Such report shall contain a general review of the work of the department and abstracts of investigations and hearings and copies of

decisions and orders rendered or issued by the commissioner and contain such recommendations for legislation as in the opinion of the commissioner is required. The commissioner may require all agricultural societies receiving money from the state to make reports to the department, and may prescribe the form of such reports.

§ 31.³ **Transfer of property, records and appropriations.** The property, records, books, papers and documents of the division of agriculture, and of the division of foods and markets shall be delivered and belong to the department of farms and markets. All unexpended balances of appropriations made for the division of agriculture, and the division of foods and markets shall be available for and expended by such department in carrying out the objects and purpose of such appropriations.

Source.—
Farms and
markets
law, § 20.

ARTICLE 3.

Investigation; Practice and Procedure; Violations; Penalties.

Section 32. Investigations and proceedings.

33. Immunity of witnesses.

34. Practice on hearings; attendance and examination of witnesses.

35. Proceedings in court.

36. Orders and service thereof.

37. Review by court.

38. When injunction may be obtained.

39. Penalties for violation of chapter or other laws.

40. Penalty for violation of rules or orders.*

41. Violation of chapter or rule a misdemeanor.

42. Act of officer or agent deemed act of principal.

43. Evidence.

44. Prosecution for penalties.

45. Disposal of fines and moneys recovered.

§ 32. **Investigations and proceedings.** 1. The commissioner, or any officer of the department when authorized by the commissioner, may investigate and report as to all matters within or pertaining to the powers and jurisdiction of the department, and for the purposes of carrying into effect the provisions of this chapter or of any other law relative to matters within its jurisdiction and the rules of the department.

Source.—
Farms and
markets
law, § 50.

2. Proceedings may be instituted before the commissioner against a corporation, association or person upon the written complaint of any person or corporation aggrieved complaining of practices in the production, sale, transportation, purchase, storage, marketing and distribution of foods, in violation of any provision of law or the rules of the department or of the terms of an order issued pursuant to law by the commissioner, under the provisions of this chapter or of any other law the enforcement of which is within the jurisdiction of the department, or the rules of the department, made in conformity therewith.

* So in original. [Does not conform to section heading.]

³Section 31 is amended by L. 1922, ch. 362, post.

3. Upon the presentation of such complaint the commissioner may cause inquiries to be made as to the matters alleged therein and if such complaint appears to present a sufficient cause for investigation a copy of such complaint shall be forwarded to the person, association or corporation complained of and answer may be made thereto in accordance with the rules of the department.

4. The commissioner shall thereupon cause the charges presented by such complaint to be investigated as herein provided, and such action shall be taken as the facts justify and as may be authorized by law.

Source.—
Farms and
markets
law, § 51.

§ 33. **Immunity of witnesses.** No person shall be excused from testifying or from producing any books or papers in any investigation, hearing or inquiry, conducted pursuant to this chapter or the rules of the department when directed to do so by the officer presiding at such investigation, hearing or inquiry, upon the ground that the testimony or evidence, books or documents, required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to penalty or forfeiture, for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence and no testimony so given or produced shall be received against him upon any criminal action, investigation or proceeding, provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

Source.—
Farms and
markets
law, § 53.

§ 34. **Practice on hearings; attendance and examination of witnesses.** 1. The practice on all investigations and hearings conducted or instituted as provided in this chapter shall be governed by the rules of the department, and in all such hearings or investigations where testimony is taken, the commissioner, or other officer conducting the same, shall not be bound by the technical rules of evidence.

2. All subpoenas shall be signed and issued by the commissioner, assistant commissioner or the secretary of the department and may be served by any person of full age.

The fees of witnesses shall be audited and paid in the same manner as other expenses of the department. Whenever a subpoena is issued at the instance of a complainant, respondent or other party to the proceeding, the cost of the service thereof and the fees of the witness shall be borne by the party at whose instance the witness is subpoenaed.

A subpoena issued as herein provided shall be served in the same manner as a subpoena issued out of a court of record.

3. If a person subpoenaed to attend before the commissioner or other officer of the department, fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance upon an investigation or hearing shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or paper, when ordered so to do by the officer

or officers conducting such an investigation or hearing, or to subscribe and swear to his deposition after it has been correctly reduced to writing, if required so to do, he shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent criminal jurisdiction.

4. If a person in attendance upon an investigation or hearing refuses without reasonable cause to be examined or to answer a legal and pertinent question or produce a book or paper, when ordered so to do by the officer or officers conducting such investigation or hearing, the commissioner may apply to any justice of the supreme court upon proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail; upon the return of such order the justice before whom the matter shall come on for hearing shall examine under oath such person whose testimony may be relevant, and such person shall be given an opportunity to be heard; and if the justice determine that such person has refused without reasonable cause or legal excuse to be examined, or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

5. Any person who shall wilfully testify falsely as to any material matter pending in an investigation or proceeding under this chapter shall be guilty of perjury.

§ 35. **Proceedings in court.** If it appear after an investigation or hearing conducted as herein provided that any person, association or corporation is guilty of a violation of the provisions of this chapter or of any other act the enforcement of which is within the jurisdiction of the department, an action or proceeding may be instituted in a court of competent jurisdiction to recover a penalty for such violation or to compel a compliance with such provisions, or prevent a continuance of such violations.

Source.—
Farms and
markets
law, § 53.

§ 36. **Orders and service thereof.** 1. If it be ascertained after an investigation or hearing conducted as herein provided, that any person, association or corporation has failed to comply with or is guilty of a violation of the provisions of this chapter or of a rule of the department, or of any other general or special law relative to any matter within the jurisdiction of the department, an order may be made by the commissioner, under the seal of the department, compelling a compliance with such law or rule.

Source.—
Farms and
markets
law, § 54.

2. Every such order shall be served upon every person, association or corporation affected thereby, either by personal delivery of a certified copy thereof, or by mailing a certified copy thereof with postage prepaid to the person affected thereby, or in case of a corporation or association, to an officer or agent thereof, upon whom a summons may be served in accordance with the provisions of the civil practice act.

3. It shall be the duty of the person, association or corporation upon whom such order is so served to notify the department forthwith, in writing, of the receipt of such order, and in the case of an association or corporation such notification must be signed and acknowledged by a person or officer duly authorized by such association or corporation to admit service. Within a time specified in the order, every person, association or corporation upon whom it is served must, if so required in the order, notify the department in like manner whether the terms of the order are accepted and will be obeyed.

4. Every such order shall take effect at a time therein specified, and shall continue in force either for a period to be designated therein or until changed or abrogated by the commissioner.

5. If such hearing is held before an assistant commissioner, a report shall be made upon the termination of the hearing to the commissioner, with recommendation as to the determination which should be made as to the issues raised on such hearing. If the commissioner find upon such report or upon a hearing conducted by him, that the rule or order complained of is reasonable and valid he shall render his decision ratifying or confirming such rule or order; if he find that such rule or order is unreasonable or invalid, he shall revoke or modify it, or substitute a new rule or order in its place. If such modified or new rule or order is substantially different from the rule or order complained of, the parties affected thereby may bring before the commissioner, by a new petition, in the manner above provided, objections to its reasonableness or validity.

6. The decision of the commissioner shall be final, unless within thirty days after its issuance one of the parties shall institute a proceeding for the review thereof, as provided in the next section.

Source.—
Farms and
markets
law, § 56:

§ 37. **Review by court.** Any person affected by a decision of the commissioner rendered as provided in the preceding section may institute a proceeding for the review thereof in the supreme court of the county of Albany or any county in which the department shall have established a branch office. Such proceeding shall be instituted against the commissioner as respondent by petition and on such notice as the court may prescribe. If reasonable grounds are shown for a review of such decision, the court shall direct that within a specified time a return be filed with the clerk of the court, containing a certified copy of the testimony taken upon the hearing before the commissioner, together with copies of all papers, documents and records used therein. If the decision sought to be reviewed is one refusing a hearing on the ground that the issues have been determined in a prior proceeding, such return shall include a certified copy of the records of such prior proceeding. The court may of its own motion or upon motion of a party suspend the rule or order sought to be reviewed during the pendency of the review, and unless so suspended the rule or order shall remain in full force and effect.

The court shall thereupon determine the issues raised from the return so made and it may, where questions of fact arise which

were not raised or disposed of upon the hearing, take additional evidence as to the matters involved in the proceeding. The court may refer any issue arising in such proceeding to the commissioner for further consideration. At any time during such proceeding the party applying for a review of the commissioner's decision may apply to the court, without notice, for an order directing all questions of fact arising upon one or more specified issues, to be tried and determined by a jury, and the court shall thereupon cause such questions to be plainly stated for trial, and the findings of the jury upon such questions shall be conclusive in the proceeding.

A proceeding instituted as provided in this section shall have precedence over other actions and proceedings in the same court to the same extent and subject to the same conditions as an action or special proceeding brought by or against the people of the state.

Appeals from the supreme court to the appellate division of the supreme court and to the court of appeals may be taken in such cases and subject to the same limitations as in other cases.

§ 38. **When injunction may be obtained.** In an action in the supreme court for the recovery of a penalty or forfeiture incurred for the violation of any of the provisions of this chapter, or of any other law the enforcement of which is within the jurisdiction of the department, or of the rules of the department, an application may be made on the part of the people to the court or any justice thereof for an injunction to restrain the defendant, his agents and employees from the further violation of such provisions. The court or justice to whom such application is made, shall grant such injunction on proof, by affidavit, that the defendant has been guilty of the violations alleged in the complaint, or of a violation of any such provision subsequent to the commencement of the action. No security on the part of the plaintiff shall be required, and costs of the application may be granted or refused in the discretion of the court or justice. If the plaintiff shall recover judgment in the action for any penalty or forfeiture demanded in the complaint, the judgment shall contain a permanent injunction, restraining the defendant, his agents and employees from any further violation of such provision of this chapter or of any other law the enforcement of which is within the jurisdiction of the department or of the rules of the department. Any injunction, order or judgment obtained under this section may be served on the defendant by posting the same upon the outer door of the defendant's usual place of business, or where such violation was or is committed, or in the manner required by the civil practice act, and the rules and practice of the court. Personal service of the injunction shall not be necessary when such service cannot be secured with reasonable diligence, but the service herein provided shall be deemed sufficient in any proceeding for the violation of such injunction.

Source.—
Farms and
markets
law, § 57.

§ 39. **Penalties for violation of chapter or other laws.** Every person violating any of the provisions of this chapter, or of any other law the enforcement of which is within the jurisdiction of

Source.—
Farms and
markets
law, § 58.

the department shall, except where other penalties are herein-after prescribed, be subject to a penalty in the sum of not less than twenty-five dollars nor more than one hundred dollars for the first violation, nor more than two hundred dollars for the second and each subsequent violation. When such violation consists of the manufacture or production of any prohibited article, each day during which or any part of which such manufacture or production is carried on or continued, shall be deemed a separate violation. When the violation consists of the sale, or the offering or exposing for sale or exchange of any prohibited article or substance, the sale of each one of several packages shall constitute a separate violation, and each day on which any such article or substance is offered or exposed for sale or exchange shall constitute a separate violation. If the sale be of milk and it be in cans, bottles or containers of any kind and if the milk in any one of such containers be adulterated, it shall be deemed a violation whether such vendor be selling all the milk in all of his containers to one person or not. When the use of any such article or substance is prohibited, each day during which or any part of which such article or substance is so used or furnished for use, shall constitute a separate violation, and the furnishing of the same for use to each person to whom the same may be furnished shall constitute a separate violation. When the storage of any article is prohibited beyond a certain period, each day during which or any part of which any article is so stored beyond the period provided for by this chapter, shall constitute a separate violation.

A right of action for the recovery of, or a liability for, penalties incurred as provided in this chapter, or in any other law the enforcement of which is within the jurisdiction of the department, may be released, settled or compromised before the matter is referred to the attorney-general as provided in section forty-four of this chapter, and thereafter may be released, settled or compromised by the attorney-general, either before or after an action is brought to recover such penalties.

Source.—
Farms and
markets
law, § 59.

§ 40. Penalty for violation of rule or order. Every person, association or corporation and all agents, officers and employees thereof, shall obey every order made as provided in this chapter, so long as such order shall be in force. A person, association or corporation who shall fail by himself, itself or through his or its agents, officers and employees, to obey any order of the commissioner, or who shall violate any rule of the department shall be subject to a penalty not exceeding the sum of two hundred dollars for each and every offense. Every violation of such order, or of the rules of the department, shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall be a separate and distinct offense.

Source.—
Farms and
markets
law, § 60.

§ 41. Violation of chapter or rule a misdemeanor. A person who by himself or another violates any of the provisions of this chapter or of any other law the enforcement of which is within the jurisdiction of the department, or of any lawful rule of the department is guilty of a misdemeanor, and upon conviction

shall, except as otherwise provided in this chapter, be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment for not less than one month, nor more than six months, or by both such fine and imprisonment, for the first offense; and by not more than one year's imprisonment for the second offense.

§ 42. **Act of officer or agent deemed act of principal.** In construing and enforcing the provisions of this chapter relating to penalties, the act of a director, officer, agent or other person acting for or employed by a person, association or corporation subject to the provisions of this chapter and acting within the scope of his employment, shall be deemed the act of such person, association or corporation.

Source.—
Farms and
markets
law, § 61.

§ 43. **Evidence.** The doing of anything prohibited by this chapter shall be evidence of the violation of the provisions of this chapter relating to the thing so prohibited, and the omission to do anything directed to be done shall be evidence of a violation of the provisions of the chapter relative to the thing so directed to be done. The intent of any person doing or omitting to do any such act is immaterial in any prosecution for a violation of the provisions of this chapter. Any person who suffers, permits or allows any violation of the provisions of this chapter in any room or building occupied or controlled by him, shall be guilty of such violation and liable accordingly. Any person who shall keep, store or display any article or product, the manufacture or sale of which is prohibited or regulated by this chapter, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale.

Source.—
Agricultural law,
§§ 7, 8.

Every certificate, duly signed and acknowledged, of a chemist, analyst or other expert employed by the commissioner or any analysis, examination or investigation made by such analyst, chemist or expert with respect to any matter or product which the commissioner has authority to examine or cause to be examined, shall be presumptive evidence of the facts therein stated.

§ 44. **Prosecution for penalties.** 1. Whenever the commissioner shall know or have reason to believe that any penalty has been incurred by any person for a violation of any of the provisions of this chapter, or of any other law the enforcement of which is within the jurisdiction of the department, or of the rules of the department, or that any sum has been forfeited by reason of any such violation, the commissioner may report the facts to the attorney general who may cause an action or proceeding to be brought in the name of the people for the recovery of the same. Such action may be brought in the county where the defendant resides or the violation, or any part thereof, occurred.

Source.—
Farms and
markets
law, § 62.

2. In an action for a penalty or forfeiture incurred by reason of the violation of the provisions of this chapter, or of any other law the enforcement of which is within the jurisdiction of the department, or of the rules of the department, when the complaint charges a violation of any two or more of such provisions, the plaintiff shall not be compelled to elect between the counts under such different provisions but shall be entitled to recover if it is

found that a violation of any of such provisions has been committed for which a penalty or forfeiture is imposed.

3. If the defendant in such an action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of a rule or order of the department, the defendant was actually and in good faith prosecuting a suit, action or proceeding before the department or in the courts to set aside such rule or order, the court shall remit the penalties or forfeitures incurred during the pendency of such action or proceeding.

Source.—
Farms and
markets
law, § 68.

§ 45. **Disposal of fines and moneys recovered.** Except as otherwise expressly provided in this chapter, all moneys recovered, either as penalties, forfeitures or otherwise, for the violation of any of the provisions of this chapter, or of any other law the enforcement of which is within the jurisdiction of the department, or of the rules of the department, shall be paid into the treasury of the state. The same disposal shall be made of all moneys recovered upon any bond given by any officer by virtue of the provisions of this chapter.

ARTICLE 4.

Dairy Products.

Section 46. Definitions.

47. Care and feed of cows, and care and keeping of milk.
48. Receptacles to be cleansed before returning; receptacles may be seized; evidence; violation.
49. Insanitary cans and receptacles condemned.
50. Prohibiting the sale of adulterated milk and adulterated cream and regulating the sale of milk and cream mixed.
51. Inspection; how conducted.
52. Presumptions in regard to cream and skim milk.
53. Certified milk.
54. Regulations in regard to manufactories, plants or places where milk or cream is brought or received.
55. Skim milk and whey to be heated.
56. Purchase of milk and cream on butter fat test.
57. Licensing of persons in charge of milk gathering stations and of persons making butter fat tests.
58. Regulations in regard to evaporated or condensed milk.
59. Manufacture and sale of imitation butter prohibited.
60. Manufacture or mixing of animal fats with milk, cream or butter prohibited.
61. Prohibited articles not to be furnished for use.
62. Coloring matter, dairy terms, size of package, labeling.
63. Manufacture and sale of imitation cheese prohibited.
64. When prohibitions do not apply to skim milk or skim cheese.
65. Butterine, imitation cheese, and similar products not to be purchased by certain institutions.

- Section 66. Purchase, sale and use of butterine and similar products prohibited in certain institutions.
67. Manufacturer's brand of cheese.
68. Use of false brand prohibited; branding of skim milk cheese regulated.
69. County trade marks.
70. Branded cans, jars or bottles not to be sold, remarked or used without consent of owner.
71. Registration of mark; defacing mark; seizure.

§ 46.⁴ **Definitions.** The term "milk" when used in this article means the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and five days after calving or such longer period as may be necessary to render the milk practically colostrum free.

Source.—
Agricultural law,
§ 30.

The term "pure cream" or "unadulterated cream," when used singly or together, means cream taken from pure unadulterated milk.

The term "milk and cream" when used means a mixture of milk and cream which contains at least ten per centum of milk fat.

The term "adulterated milk" when used means:

1. Milk containing more than eighty-eight and one-half per centum of water or fluids.
2. Milk containing less than eleven and one-half per centum of milk solids.
3. Milk containing less than three per centum of fats.
4. Milk drawn from cows within fifteen days before and five days after parturition.
5. Milk drawn from animals fed on distillery waste or any substance in a state of fermentation or putrefaction, except ensilage, or on any unhealthy food.
6. Milk drawn from cows kept in a crowded or unhealthy condition; or milk produced or kept in insanitary surroundings or in any environment or under any condition whatever that is inimical to its healthfulness or wholesomeness.
7. Milk from which any part of the cream has been removed.
8. Milk which has been diluted with water or any other fluid, or to which has been added or into which has been introduced any foreign substance whatever.

All adulterated milk shall be deemed unclean, unhealthful, impure and unwholesome.

The term "adulterated cream" when used means cream containing less than eighteen per centum of milk fat or cream to which any substance whatsoever has been added.

The term "butter" when used means the product of the dairy, usually known by that term, which is manufactured exclusively from pure, unadulterated milk or cream or both with or without salt or coloring matter.

The term "cheese" when used means the product of the dairy,

⁴ Section 46 is amended by L. 1922, chs. 365, 368, post.

usually known by that term, which is manufactured exclusively from pure unadulterated milk or cream or both with or without coloring matter, salt, rennet, sage, olives, pimentos, walnuts, peanuts, tomatoes, celery salt, or onions, added thereto as a flavor: provided that when manufactured by adding to the elemental product of the dairy usually known by the term "cheese," and manufactured exclusively from pure, unadulterated milk or cream or both, any pimentos, olives, walnuts, peanuts, celery salt, tomatoes or onions the percentage of all such substances so added shall not exceed twenty-five per centum in bulk of the manufactured product.

The terms "oleomargarine," "butterine," "imitation of butter," "imitation cheese" mean any article or substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure or unadulterated milk or cream, or any article or substance into which any oil, lard or fat not produced from milk or cream enters as a component part, or into which melted butter or butter in any condition or state or any oil thereof has been introduced to take the place of cream.

Source.—
Agricultural law,
§ 21, § 45,
in part.

§ 47. **Care and feed of cows, and care and keeping of milk.** No person shall keep cows, for the production of milk for market or for sale or exchange, or for manufacturing the milk or cream from the same into any article of food, in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings and no person shall keep such cows or the product therefrom in such condition or surroundings or in such places as shall cause or tend to cause the produce from such cows to be in an unclean, unhealthful or diseased condition, if the produce from such cows is to be sold, offered or exposed for sale upon the markets for consumption or to be manufactured into any food product, nor shall such cows or the produce therefrom be handled or cared for by any person suffering with or affected by an infectious or contagious disease, nor shall any such cows be fed on any substance that is in a state of putrefaction or fermentation, or upon any food that is unhealthful or that produces or may produce impure, unhealthful, diseased or unwholesome milk. But this section shall not be construed to prohibit the feeding of ensilage.

No person having milk in his possession for the purpose of selling the same for consumption as such or for manufacturing the same into butter, cheese, evaporated or condensed milk or other food shall keep the same in utensils, cans, vessels, rooms or buildings that are unclean or have insanitary surroundings or drainage or in any condition whatsoever that would tend to produce or promote conditions favorable to unhealthfulness or disease. The commissioner shall notify all persons violating this section to clean said utensils, cans, vessels, rooms or buildings or to so improve the sanitary conditions that the foregoing provisions will not be violated; and if such notice is complied with within ten days no prosecution, civil or criminal, for a violation of this section shall be instituted.

Source.—
Agricultural law,
§ 47.

§ 48. **Receptacles to be cleansed before returning; receptacles may be seized; evidence; violation.** Whenever any can or

receptacle is used for transporting or conveying milk, cream or curd to market for the purpose of selling or furnishing the same for consumption as human food, or for manufacturing into human food, which can or receptacle, when emptied, is returned or intended to be returned to the person so selling, furnishing or shipping such substance to be again thus used, or which is liable to continued use in so transporting, conveying, selling or shipping such substance as aforesaid, the consumer, dealer or consignee using, selling or receiving the milk, cream or curd from such can or receptacle, shall, before so returning such can or receptacle remove all substances foreign to milk therefrom, by rinsing with water or otherwise. When any such milk, cream or curd is sold within any city of this state or shipped into any such city, the fact of such shipment or sale shall be prima facie evidence that the same was so shipped or sold for consumption as human food or to be manufactured into human food. When any such can or receptacle is returned or delivered or shipped to any person or creamery so selling such substance within, or shipping the same into such city, it shall be deemed that such can or receptacle is liable to such continued use in so selling or shipping such substance therein for consumption as human food within the meaning and purposes of this article. No person shall place or suffer to be placed in any such can or receptacle any sweepings, refuse, dirt, litter, garbage, filth or any other animal or vegetable substance, nor shall any such consignee or other person through himself, his agent or employee, bring or deliver to any person or railroad or other conveyance any such can or receptacle for the purpose of such return, or any milk, cream or curd can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in so selling or shipping such substances for consumption as human food, which can or receptacle contains such foreign substance or which has not been rinsed as herein provided. The word "curd" as used in this article applies to the substance otherwise known as "pot cheese" or "cottage cheese." Whenever any such can or receptacle is used, returned, delivered or shipped in violation of this article every such use, return, delivery or shipment of each such can or receptacle shall be deemed a separate violation thereof. Such cans or receptacles so used, returned, delivered or shipped in violation of this article may be seized by the commissioner, his assistants or agents and held as evidence of such violation.

§ 49. **Insanitary cans and receptacles condemned.** All cans, or receptacles used in the sale of milk, cream or curd for consumption, or in transporting or shipping the same to market or the delivery thereof to purchasers for consumption as human food, when found by the commissioner or his assistants or agents to be in unfit condition to be so used by reason of being worn out, badly rusted, or with rusted inside surface, or unclean or insanitary or in such condition that they can not be rendered clean and sanitary by washing, and will tend to produce or promote in milk, cream or curd when contained therein, bad flavors, unclean or unwholesome conditions favorable to unhealthfulness

Source.—
Agricultural law,
§ 46.

or disease, shall be condemned by the commissioner or his assistants or agents. Every such can or receptacle when so condemned shall be marked by a stamp, impression or device, designed by the commissioner, showing that it has been so condemned, and when so condemned shall not thereafter be used by any person for the purpose of so selling, transporting or shipping milk, cream or curd.

Source.—
Agricultural law,
§ 32.

§ 50.⁵ **Prohibiting the sale of adulterated milk and adulterated cream and regulating the sale of milk and cream mixed.** No person shall sell or exchange or offer or expose for sale or exchange, any unclean, impure, unhealthy, adulterated or unwholesome milk or any cream from the same, or any unclean, impure, unhealthy, adulterated, colored, or unwholesome cream, or sell or exchange, or offer or expose for sale or exchange, any substance in imitation or semblance of cream, which is not cream, nor shall he sell or exchange, or offer or expose for sale or exchange any such substance as and for cream, or sell or exchange, or offer or expose for sale or exchange any article of food made from such milk or cream or manufacture from any such milk or cream any article of food. No person shall sell or exchange or offer or expose for sale or exchange any products as and for "milk or cream" containing anything except pure milk and cream mixed together and which does not contain at least ten per centum of milk fat. Any person delivering milk, cream, or "milk and cream" to any butter or cheese factory, condensary, milk gathering station or railway station to be shipped to any city, town or village shall be deemed to expose or offer the same for sale whether the said milk is delivered or consigned to himself or another. Each and every can thus delivered, shipped or consigned, if it be not pure milk, must bear a label or card upon which shall be stated the constituents or ingredients of the contents of the can.

Source.—
Agricultural law,
§ 35.

§ 51. **Inspection; how conducted.** When the commissioner, an assistant commissioner, or any person or officer authorized by the commissioner, to examine or inspect any milk, shall in discharge of his duties take samples of such product, he shall before taking a sample, request the person delivering the milk or who has charge of it at the time of inspection, to thoroughly stir or mix the said milk before the sample is taken. If the person so in charge refuses to stir or mix the milk as requested, then the person so requesting shall himself so stir and mix the milk before taking the sample, and the defendant shall thereafter be precluded from introducing evidence to show that the milk so taken was not a fair sample of the milk delivered, sold, offered or exposed for sale by him. The person taking the sample of milk for analysis shall take duplicate samples thereof in the presence of at least one witness, and he shall in the presence of such witness seal both of such samples, and shall tender, and, if accepted, deliver at the time of taking one sample to the manufacturer or vendor of such product, or to the person having

⁵ Section 50 is amended by L. 1922, ch. 364, post.

custody of the same, with a statement in writing of the cause of the taking of the sample. In taking samples of milk for analysis at a creamery, factory, platform or other place where the same is delivered by the producer for manufacture, sale or shipment, or from a milk vendor who produces the milk which he sells, with a view of prosecuting the producer of such milk for delivering, selling or offering for sale adulterated milk, the said commissioner or assistant or his agent or agents shall within ten days thereafter, with the consent of the said producer, take a sample in a like manner of the mixed milk of the herd of cows from which the milk first sampled was drawn and shall deliver the duplicate sample to the said producer and shall cause the sample taken by himself or his agent to be analyzed. If the sample of milk last taken by the commissioner or his agent or agents shall upon analysis prove to contain no higher percentage of milk solids, or no higher percentage of fat than the sample taken at the creamery, factory, platform or other place, then no action shall lie against the said producer for violation of subdivisions one, two, three, seven and eight of section forty-six of this chapter. In taking a second sample as above set forth from the mixed milk of the herd, it shall be the duty of the commissioner to have an assistant, agent or agents present during the entire time in which the said cattle are being milked to observe closely so as to be sure that the milk thus to be sampled is not adulterated and to see that it is thoroughly mixed so that the sample taken shall be a fair sample of the average quality of the mixed milk of the entire dairy or herd of cows of said producer. If, however, the said producer refuses to allow such examination of the milk produced by his dairy, then he shall be precluded from offering any evidence whatever tending to show that the milk delivered by him at the said creamery, factory, platform or other place was just as it came from the cow. If the said producer does permit such examination, the commissioner shall, upon receiving application therefor, send to said producer a copy of the analysis of each of the samples of milk so taken and analyzed as above provided. If a sample of milk shall have been taken by the commissioner or by his orders or directions from any dairy within this state and an analysis thereof has been made by the commissioner or by his authority, any person who is or was buying milk from the said dairy at or subsequent to the time of such taking, may apply to the commissioner for a copy of the analysis of the said sample of milk so taken and the commissioner shall thereafter furnish the said applicant with such copy.

§ 52. **Presumptions in regard to cream and skim milk.** When cream is separated or skimmed from milk at any station or establishment where milk is received from producers for the purpose of selling the same or shipping the same to market for consumption as food and the supply of milk on hand thereat at the time of the next regular daily shipment of milk therefrom, consisting of the total amount of milk in such shipment, together with that remaining on hand immediately after such shipment,

Source.—
Agricultural law,
§ 45, in
part.

is not thereby decreased or correspondingly less than the total quantity received during any period extending from some point of time before such skimming was done until the time of such shipment, together with the amount of milk on hand at the commencement of such period, and such decrease is not equal in amount to the quantity of milk that must have been used in so separating such cream in addition to the quantity otherwise there used or disposed of during such period, such fact is conclusive that skim milk or other foreign substance was added to such milk supply within such period and shall be presumptive evidence within the meaning of this section that the same was added to each can or vessel of milk in such shipment. When cream or skim milk is found to have been on the premises of any such station or establishment or is sold or shipped therefrom, such cream or skim milk so found or so sold or shipped therefrom shall be presumed to have been produced by separating or skimming at such station or establishment. In any action or proceeding relative to the adulteration of milk by removing cream therefrom or adding skim milk or other foreign substance thereto, it shall be presumed that when cream has been produced by so skimming or separating or butter has been manufactured, there was made at least five quarts of milk in the production of each quart of cream so produced and there was necessarily so produced thereby at least four quarts of skim milk to each quart of cream so produced, and that there was used at least nine quarts of milk in the production of each pound of butter so manufactured.

Source.—
Agricultural law,
§ 32, in
part.

§ 53.⁶ **Certified milk.** No person shall sell or exchange, or offer or expose for sale or exchange, as and for certified milk, any milk which does not conform to the regulations prescribed by, and bear the certification of, a milk commission appointed by a county medical society, chartered by the medical society of the state of New York, nor any milk which is not free from antiseptics, added preservatives, pathogenic bacteria or bacteria in excessive numbers. All milk sold as certified milk shall be conspicuously marked with the name of the commission certifying it.

Source.—
Agricultural law,
§ 38, § 45,
in part.

§ 54. **Regulations in regard to manufactories, plants or places where milk or cream is brought or received.** No person shall sell, supply or bring to any butter or cheese factory or to any plant or place which manufactures a food product from milk or which ships or sells milk for consumption any milk diluted with water, or any unclean, impure, unhealthy, adulterated or unwholesome milk, or milk from which any of the cream has been taken, except pure skim milk to skim-cheese factories. No person shall sell, supply or bring to be manufactured to any butter or cheese factory or to any plant or place which manufactures a food product from milk or which ships or sells milk for consumption any milk that is sour or from which has been kept back any part of the milk commonly known as strippings, except pure skim milk

⁶ Section 53 is repealed by L. 1922, ch. 364, post.

to skim-cheese factories. The owner or proprietor or the person having charge of any such manufactory, plant or place where milk is received for any such purpose, not buying all the milk used by him, shall not use for his own benefit, or allow any of his employees or any other person to use for his own benefit, any milk, cream, butter or cheese or any other product thereof, brought to such factory, without the consent of the owners of such milk or the products thereof. Every such manufactory, plant or place not buying all the milk used, shall keep a correct account of all the milk or cream daily received, of the number of packages of butter and cheese made each day, and the number of packages and aggregate weight of cheese and butter disposed of each day; which account shall be open to inspection to any person who delivers milk to such manufactory, plant or place. Every purchaser or receiver of milk from the producer thereof, for manufacturing purposes or for reselling the same, shall on written request therefor, tender daily thereafter at time of delivery to such producer, or to the person delivering such milk to such purchaser in behalf of such producer, a written statement of the amount of milk so received or purchased until or unless such producer notifies such purchaser in writing that he no longer desires such statement; such statement shall give, first, the name of the producer or seller, second, the date of delivery, third, the amount so delivered, fourth, shall be signed by the purchaser or his duly authorized representative; such statement shall be given in the terms of the unit used as a basis for determining the value thereof. Such purchaser or receiver shall, at each periodical time of payment for such milk, give each such producer, so delivering milk, a statement showing the amount of milk delivered during the periodical time for which payment is made, and the average per centum of butter fat test of same, provided payment is made on basis of butter fat content.

Any person having charge of a milk gathering station or establishment as aforesaid shall keep a true and correct monthly record of the receipts of milk or other dairy products received at such station or establishment, and also a true and correct monthly record of all sales or shipments of milk, cream or other dairy products shipped or sold from such station or establishment, and shall also keep a true and correct monthly record of the amount of skim milk produced in such station or establishment and of the disposition of said skim milk. Such record shall be preserved at such station or establishment for at least two years after the same shall have been made and such records shall at all times be open to the inspection of the commissioner, his assistants or agents. When cream is sold or shipped from any such station or establishment so selling or shipping milk for consumption as aforesaid, each original bottle or package of one quart or less of cream so shipped or sold shall bear a label securely attached to the side of such bottle or package on which shall be conspicuously printed the word "cream" in black letters of at least one-fourth of an inch in length or else the word "cream" shall be blown in the side of such bottle in plain raised letters of at

least one-half an inch in length, and the top and side of each and every other original package or can containing cream or original crate or case containing bottles of cream so shipped or sold shall bear a label securely attached on which shall be conspicuously printed the word "cream" in black letters of at least one inch in length and also a plainly written or printed statement on the label stating from whom and what station the same is shipped and the name of the consignee and point of destination and date on which the cream therein was produced by such separation or skimming. The shipment of each and every such original package of cream so shipped and not so labeled as herein required shall constitute a separate violation.

Source.—
Agricultural law,
§ 33a.

§ 55.¹ **Skim milk and whey to be heated.** Skim milk or whey which are by-products of butter factories, cheese factories or other dairy plants or places, if returned, given, sold, or delivered to persons who may thereafter use the same for feeding purposes shall, before being so returned, given, sold or delivered, be heated to a temperature of one hundred and fifty degrees Fahrenheit. No skim milk or whey from such plants shall be fed to domestic animals until after it has been heated as herein provided.

Source.—
Agricultural law,
§ 33, § 35a,
in part.

§ 56. **Purchase of milk and cream on butter-fat test.** Whenever such manufacturers or owners of such manufactories, plants or places receive or purchase milk or cream upon the basis of the amount of milk fat contained therein and use for ascertaining the amount of such fat what is known as the Babcock test, or whenever the proceeds of co-operative creameries or such manufactories, plants or places are allotted on the basis of determinations of milk fat by the Babcock test, the bottles and pipettes used in such test shall conform to the standard specifications promulgated by the United States Bureau of Standards and shall before use be examined by the director of the New York agricultural experiment station. If such bottles are found to be properly constructed and graded so as to accurately show the amount of fat contained in milk or cream, each of them shall be legibly and indelibly marked "S. B." No bottle shall be so marked except as herein provided or used in any such test by such manufacturers or owners or proprietors of such manufactories, plants or places, unless so examined and marked. The acid used in making such test shall be of the required strength to accurately determine the amount of fats in milk or cream and shall be examined from time to time by competent chemists employed by the department of farms and markets and if found not to be of sufficient strength the use of such acid shall be prohibited. No person or persons receiving or purchasing milk or cream upon the basis of the amount of fat contained therein, shall credit any patron or patrons delivering milk or cream thereto with a greater or lesser percentage or average percentage of fat than is actually contained in the milk or cream so delivered. The department of farms and markets or persons employed by it for that purpose may at any time assist in making tests of milk

¹ Section 55 is amended by L. 1922, ch. 378, post.

or cream received at such manufactories, plants or places for the purpose of determining the efficiency of tests usually made at such manufactories, plants or places. No person shall use other than standard bottles or acid which is of the required strength to accurately determine the amount of fats in milk or cream. Corporations, associations or persons hereafter buying milk or cream from producers of milk or cream to be paid for on the basis of the percentage of milk fat contained therein and for that purpose taking samples therefrom to form a composite sample to be tested periodically to determine its value on such basis, shall, at the request of the producer, take such samples in duplicate and subject them to the same treatment. At the end of the period for which the composite sample is being taken such corporation, association or person shall tender same to the producer thereof or to his authorized agent and give such producer, or his said authorized agent, the choice of one of the two composite samples so taken, both of which shall be sealed. Such producer is hereby permitted to send such duplicate composite sample so received to the head of the department of dairy industry of the college of agriculture at Cornell University within ten days from the receipt thereof, properly marked for identification, and shall accompany same with his name and post office address. Such department head shall cause such sample to be tested for the per centum of milk fat and shall send a report of such test to the producer from which it was received within ten days, or as soon thereafter as possible. Corporations, associations or persons hereafter testing samples of milk or cream taken from milk or cream bought or received from producers, where the value thereof is to be determined by the butter fat content, shall reseal the remaining portion of the sample from which the test was made, and in the case of milk keep the same for at least ten days and in the case of cream keep the same for at least one day after the making of such test for the purpose of permitting the commissioner or his duly authorized representative to examine and test the same.

Corporations, associations or persons making such tests of samples of milk or cream so purchased or received shall, immediately after such tests are completed, prepare a list containing the names or numbers of the producers whose milk or cream was so tested and place opposite each such producer's name or number the percentage of fat found to have been contained in the sample of milk or cream representing the milk or cream delivered by each such producer. Such lists so prepared shall be made with indelible pencil or ink and shall be filed in the plant or place where such milk or cream is bought or received, and each such list shall be duly signed by the person making such tests and preparing such list, and such person shall place beneath his signature the number of the state license under which he is testing. All such lists shall be kept as a record for at least one year and shall be open to examination at all times by the commissioner or his duly authorized representative. At any time,

upon request of any producer, the purchaser or receiver of such milk or cream shall permit such producer to examine such part of said record as contains information concerning the samples of milk or cream representing the milk or cream delivered by such producer. Without the written permission of the commissioner, no sample of milk or cream so tested by the purchaser or his representative shall be tested at a plant or place other than the one where received, nor without such permission shall any such sample of milk be removed from any such plant or place within ten days from the date of testing, nor shall any such sample of cream be removed therefrom within one day from such date of testing.

Source.—
Agricultural law,
§ 46, § 36a,
in part.

§ 57. **Licensing of persons in charge of milk gathering stations and of persons making butter-fat tests.** Any person having charge of any milk gathering station where milk is received from producers for the purpose of selling the same for consumption or shipping the same to market for consumption as food before taking such charge or operating or working as such agent or person in charge shall apply to the commissioner for a license to so work or operate or have charge, and shall at the time of making such application, file with the commissioner a statement under oath, setting forth the fact that he will not while having charge of or operating any such milk gathering establishment or while employed therein adulterate or suffer or permit the adulteration of any such milk or any product thereof during the term for which he may be licensed. After the applicant shall have complied with the foregoing provisions of this section, the commissioner upon being satisfied that the applicant is a person of good moral character and a qualified and proper person to so have charge of or operate any such milk gathering station or establishment shall issue to said applicant a license, which shall qualify him to have charge of any such milk gathering station or establishment. The person regularly doing the work of receiving, caring for and shipping the milk at any station or establishment, or in case more than one person is so employed then the foreman in charge of such works shall be deemed to be a person in charge of such station or establishment within the meaning and purposes of this section.

Any person testing milk or cream by the Babcock method where the result of such test is used as a basis for payment, or for official inspection, or for public record, shall first obtain from the commissioner a license to do such testing. Such license shall be granted upon satisfactory evidence of good moral character and the ability to make such tests based upon satisfactorily passing an examination set by the commissioner. Such examination shall be based upon methods for making the Babcock test as outlined by the New York state college of agriculture and the commissioner.

Each license certificate issued under the provisions of this section shall be kept at the station or establishment where the licensee is employed or is engaged in testing milk or cream and shall be open to the inspection of the commissioner and the public.

Licenses under the provisions of this section shall be granted for one year and be renewable at the discretion of the commissioner without further examination of the licensee.

A license granted under the provisions of this section may be revoked by the commissioner, after hearing given upon notice to the licensee, upon evidence of dishonesty, incompetency, inaccuracy or of a violation of any provision of this article.

§ 58. **Regulations in regard to evaporated or condensed milk.** No evaporated or condensed milk shall be made or offered or exposed for sale or exchange unless manufactured from pure, clean, healthy, fresh, unadulterated and wholesome milk from which the cream has not been removed either wholly or in part, except for the purpose of standardizing, in which case such standardized evaporated or condensed milk shall contain the proportionate quantity of solids and the proportionate amount of fats required in evaporated or condensed milk. Evaporated or condensed milk manufactured, sold or exposed for sale or exchange in hermetically sealed cans shall contain milk solids in quantity not less than twenty-five and five-tenths per centum, and not less than seven and eight-tenths per centum milk fat. Sweetened condensed milk manufactured, sold or exposed for sale or exchange in hermetically sealed cans shall contain not less than twenty-eight per centum milk solids and not less than eight per centum milk fat. No person shall manufacture, sell or offer for sale or exchange in hermetically sealed cans, any evaporated or condensed milk unless put up in packages upon which shall be distinctly labeled or stamped the name of the person or corporation by whom made and the brand by which or under which it is made. When evaporated or condensed milk shall be sold from cans or packages not hermetically sealed, the producer shall brand or label the original cans or packages with the name of the manufacturer of the milk contained therein, provided, however, that no unsweetened evaporated or condensed milk shall be sold or offered for sale in containers not hermetically sealed, unless the proportion of milk solids shall be the equivalent of eleven and one-half per centum of milk solids in crude milk, and of which milk solids twenty-five per centum shall be fats.

Source.—
Agricultural law,
§ 37.

§ 59.^a **Manufacture and sale of imitation butter prohibited.** No person by himself, his agents or employees, shall produce or manufacture out of or from any animal fats or animal or vegetable oils not produced from unadulterated milk or cream from the same, the article known as oleomargarine or any article or product in imitation or semblance of natural butter produced from pure, unadulterated milk or cream of the same; or mix, compound with or add to milk, cream or butter any acids or other deleterious substance or any animal fats or animal or vegetable oils not produced from milk or cream, so as to produce any article or substance or any human food in imitation or in semblance of natural butter, nor sell, keep for sale or offer for sale any article, substance or compound, made, manufactured or produced in violation of the provisions of this section, whether

Source.—
Agricultural law,
§ 38.

^a Section 59 is amended by L. 1922, ch. 368, post.

such article, substance or compound shall be made or produced in this state or elsewhere. Any person manufacturing, selling, offering or exposing for sale any commodity or substance in imitation or semblance of butter, the product of the dairy, shall be deemed guilty of a violation of this chapter, whether he sells such commodity or substance as butter, oleomargarine or under any other name or designation whatsoever and irrespective of any representations he may make relative to such commodity or substance. Any dealer in any article or product, the manufacture or sale of which is prohibited by this section, who shall keep, store or display such article or product, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale.

Source.—
Agricultural law,
§ 29.

§ 60.^{*} **Manufacture or mixing of animal fats with milk, cream or butter prohibited.** No person shall manufacture, mix or compound with or add to natural milk, cream or butter any animal fats or animal or vegetable oils, nor make or manufacture any oleaginous substance not produced from milk or cream, with intent to sell the same as butter or cheese made from unadulterated milk or cream or have the same in his possession with such intent; nor shall any person solicit or take orders for the same or offer the same for sale, nor shall any such article or substance or compound so made or produced, be sold as and for butter or cheese, the product of the dairy. No person shall coat, powder or color with annatto or any coloring matter whatever, butterine or oleomargarine or any compound of the same or any product or manufacture made in whole or in part from animal fats or animal or vegetable oils not produced from unadulterated milk or cream by means of which such product, manufacture or compound shall resemble butter or cheese, the product of the dairy; nor shall he have the same in his possession with intent to sell the same nor shall he sell or offer to sell the same. No person by himself, his agents or employees, shall manufacture, sell, offer or expose for sale, butter that is produced by taking original packing stock or other butter or both and melting the same, so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream or other milk product and rechurning the said mixture, or that is produced by any similar process and is commonly known as boiled or process butter, unless he shall plainly brand or mark the package or tub or wrapper in which the same is put up in a conspicuous place with the words "renovated butter" or "process butter." If the same shall be put up, sold, offered or exposed for sale in prints or rolls, then the said prints or rolls shall be labeled plainly with printed letters in a conspicuous place on the wrapper with the words "renovated butter" or "process butter." If the same is packed in tubs or boxes or pails or other kind of a case or package the words "renovated butter" or "process butter" shall be printed on the top and side of the same in letters, at least, one inch in length, so as to be plainly seen by the purchaser. If such butter is exposed for sale, uncovered, not in a package or case, a placard

^{*} Section 60 is amended by L. 1922, ch. 368, post.

containing the label so printed shall be attached to the mass of butter in such manner as to easily be seen and read by the purchaser. Every person selling, offering or exposing for sale at retail, "renovated butter" or "process butter," shall cause each parcel or package of such butter delivered to or for a customer to be wrapped in a light colored paper on which shall be printed in black letters, not less than three-eighths inch square and in Gothic type, the words "renovated butter," or "process butter." No person shall sell, offer or expose for sale, any butter or other dairy products containing a preservative, but this shall not be construed to prohibit the use of salt in butter or cheese, or spirituous liquors in club or other fancy cheese or sugar in condensed milk. No person, firm, association or corporation shall induce or attempt to induce any person to violate any of the provisions of this chapter. Any person, firm, association or corporation selling, offering or advertising for sale any substance, preparation or matter for use in violation of the provisions of this chapter shall be guilty of a violation of this section.

§ 61. **Prohibited articles not to be furnished for use.** No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch-counter or place of public entertainment, nor any person having charge thereof or employed thereat, nor any person furnishing board for any others than members of his own family, or for any employees where such board is furnished for a compensation or as part of the compensation of any such employee, shall keep, use or serve therein either as food for his guests, boarders, patrons, customers or employees or for cooking purposes any article or substance made in violation of the provisions of this article. Any keeper or proprietor of any hotel, boarding house, restaurant, saloon, lunch-counter or place of public entertainment who uses or serves therein for his guests any oleaginous substance as a substitute for butter, the manufacture or sale of which is not prohibited by this chapter, shall print plainly and conspicuously on the bill-of-fare, if there is one, the words, "Oleomargarine Used Here" and shall post up conspicuously in different parts of each room where such meals are served, signs in places where they can be easily seen and read, which shall bear the words, "Oleomargarine Used Here" in letters at least two inches in length and so printed as to be easily read by guests or boarders.

Source.—
Agricultural law,
§ 40.

§ 62.¹⁰ **Coloring matter, dairy terms, size of package, labeling.** No person, manufacturing with intent to sell, any substance or article in imitation or semblance of butter or cheese not made exclusively from unadulterated milk or cream or both, with salt or rennet or both and with or without coloring matter or sage, but into which any animal, intestinal or offal fats, or any oils or fats or oleaginous substance of any kind not produced from pure, unadulterated milk or cream, or into which melted butter, or butter in any condition or state or any modification of the same, or lard or tallow shall be introduced, shall add thereto or combine therewith any annatto or compounds of the same, or

Source.—
Agricultural law,
§ 41.

¹⁰ Section 62 is amended by L. 1922, ch. 368, post.

any other substance or substances whatever, for the purpose or with the effect of imparting thereto a color resembling yellow, or any shade of yellow butter or cheese, nor introduce any such coloring matter or other substance into any of the articles of which the same is composed. And no person manufacturing, selling or offering for sale any such goods shall make or sell the same under any brand, device or label bearing words indicative of cows or the product of the dairy or the names of breeds of cows or cattle, nor use terms indicative of processes in the dairy in making or preparing butter; no such substance shall hereafter be sold, offered or exposed for sale in this state except it be sold in packages containing not more than five pounds, such packages to be wrapped and sealed, the original seal of which shall be unbroken and upon which seal shall be plainly printed the name and address of the manufacturer of said oleomargarine, and the said packages shall be plainly and conspicuously labeled with the word "Oleomargarine" in Gothic or equally conspicuous letters at least three-eighths of an inch high. The word "Oleomargarine" in large prominent letters shall be stamped by indentation on each separate brick or portion of the substance itself before it is wrapped and sealed.

Source.—
Agricultural law,
§ 43.

§ 63.¹¹ **Manufacture and sale of imitation cheese prohibited.** No person shall manufacture, deal in, sell, offer or expose for sale or exchange any article or substance, in the semblance of or in imitation of cheese made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal or offal fats or oils, or melted butter or butter in any condition or state or modification of the same, or oleaginous substances of any kind not produced from unadulterated milk or cream, shall be introduced.

Source.—
Agricultural law,
§ 44.

§ 64.¹² **When prohibitions do not apply to skim-milk or skim-cheese.** The prohibitions contained in this article against the sale of adulterated milk shall not apply to skim-milk, which is clean, pure, healthful, wholesome and unadulterated, except by skimming, if it is sold for and as skimmed milk. The prohibitions in this article against the sale of cheese made from adulterated milk or cream, shall not apply to pure skim-cheese made from milk which is clean, pure, healthy, wholesome and unadulterated, except by skimming.

Source.—
Agricultural law,
§ 52.

§ 65. **Butterine, imitation cheese and similar products not to be purchased by certain institutions.** No money appropriated by law for maintenance and support in whole or in part of a state institution; nor money received by a charitable, benevolent, penal or reformatory institution from the state, or from a county, city or town thereof, or appropriated by such county, city or town for the maintenance or support in whole or in part of such institution; nor money belonging to or used for the maintenance or support of such institution, shall be expended for the purchase of, or in payment for, butterine, oleomargarine, or articles or products in imitation or semblance of natural butter or cheese produced from pure unadulterated milk or cream from the same, which articles

¹¹ Section 63 is amended by L. 1922, ch. 365, post.

¹² Section 64 is amended by L. 1922, ch. 365, post.

or products have been rendered or manufactured in whole or in part from animal fats, or animal or vegetable oils not produced from unadulterated milk or cream from the same; nor shall any such money be expended for any condensed milk from which the butter fat has been removed and a vegetable or other oil has been substituted therefor.

§ 66. **Purchase, sale and use of butterine and similar products prohibited in certain institutions.** No officer, manager, superintendent or agent of an institution mentioned in the last section, shall purchase for the use of such institution articles or products, for the purchase of which the money appropriated by law, or by a county, city or town, is forbidden to be used by said section, and no person shall sell to, or for the use of such institution, such articles or products. Nor shall such articles or products be used as articles of food or for cooking purposes in such institutions within the state.

Source.—
Agricultural law,
§ 64.

§ 67. **Manufacturer's brand of cheese.** Every manufacturer of whole-milk cheese may put a brand or label upon such cheese indicating "whole-milk cheese" and the date of the month and year when made; and no person shall use such a brand or label upon any cheese made from milk from which any of the cream has been taken. The commissioner shall procure and issue to the cheese manufacturers of the state, on proper application therefor, and under such regulations as to the custody and use thereof as he may prescribe, a uniform stencil brand or labels bearing a suitable device or motto, and the words, "New York state whole-milk cheese." Every such brand or label shall be used upon the outside of the cheese and shall bear a different number for each separate factory. The commissioner shall keep a book, in which shall be registered the name, location and number of each manufactory using the brands or labels, and the name or names of the persons at each manufactory authorized to use the same. No such brand or labels shall be used upon any other than whole-milk cheese or packages containing the same.

Source.—
Agricultural law,
§ 48.

§ 68. **Use of false brand prohibited; branding of skim-milk cheese regulated.** No person shall offer, sell or expose for sale, in any package, butter or cheese which is falsely branded or labeled. No person shall sell, offer or expose for sale cheese commonly known as cheddar cheese or stirred curd cheese made from skimmed or partially skimmed milk unless the same is branded to show that it is skim-milk cheese. All such cheese so sold, offered or exposed for sale shall be branded with the words "skim-milk cheese," or if such cheese contains thirteen per centum of milk fat or over, it may be branded "medium skim-milk cheese," or if it contains eighteen per centum of milk fat or over, it may be branded "special skim-milk cheese." Cheese known as cheddar cheese, cheddar style cheese, stirred curd cheese, twin cheese, flats, daisies, daisy twins, longhorns and young americas containing more than forty per centum of moisture shall when sold, offered or exposed for sale be branded or marked conspicuously with the words "cheddar cheese excess moisture."

Source.—
Agricultural law,
§ 48.

Cheese known as "washed curd cheese" shall not be manufactured, sold, offered or exposed for sale upon the markets of this state unless it is branded or marked conspicuously with the words "washed curd cheese." Any such cheese containing more than forty-two per centum of moisture shall be branded or marked conspicuously with the words "washed curd cheese excess moisture." The branding herein provided shall be upon the sides of both the cheese and the container and shall be in block letters at least one-half an inch square.

Source.—
Agricultural law,
§ 50.

§ 69. **County trade marks.** At a regular or special meeting of a county dairymen's association in any county of the state there may be adopted a county trade mark, by a majority of the members present and voting, to be used as a trade mark by a person manufacturing pure unadulterated butter or full-cream cheese in such county. The secretary of the association shall forthwith send to the commissioner a copy of such trade mark, which copy he shall place on file in his office, noting thereupon the day and hour he received the same. But one county trade mark for butter and for cheese shall be placed on file for the same county. No association shall adopt any trade mark of any county already on file, or use that of any other county in the formation of a trade mark.

Source.—
Agricultural law,
§ 26.

§ 70. **Branded cans, jars or bottles not to be sold, re-marked or used without consent of owner.** No person shall hereafter-without the consent of the owner use, sell, dispose of, buy or traffic in any milk can, jar or bottle, or cream can, jar or bottle, having the name or initials of the owner stamped, marked or fastened on such can, jar or bottle, or wilfully mar, erase or change by re-marking or otherwise said name or initials of any such owner, so stamped, marked or fastened upon said can, jar or bottle. Nor shall any person without the consent of the owner place in any such can, jar or bottle, any substance or product other than milk or cream.

Source.—
Agricultural law,
§ 26a.

§ 71. **Registration of mark; defacing mark; seizure.** Any person owning milk cans, jars or bottles upon which he has placed or desires to place any designating mark may register the said designating mark with the commissioner, who shall keep a record thereof, and he may also register with the commissioner, from time to time, the number of such cans, jars or bottles which he has or is to have, which do or may bear such designating mark. Such cans, jars or bottles may, after such registration be numbered consecutively and such consecutive numbers may be registered in the department, as above provided, with the designating mark. If any such can, jar or bottle, bearing such designating mark, shall be found in the possession of, and being used by any person other than the one so registering the same it shall be presumptive evidence of a violation of the provisions of this article, unless such person has the consent of the owner thereof to so have and use the same.

No person, except the original owner thereof, or a person duly authorized by him so to do, shall remove, deface or erase any of the marks upon the cans, jars or bottles herein provided for.

When the commissioner, or any person duly authorized by him, shall find any such cans, jars or bottles, bearing such registered designating mark, in the possession of or being used by another person than the owner thereof, he may seize the same, and if evidence is produced in three days showing that such person had been given permission to have or use such cans, jars or bottles, then they shall be delivered by the commissioner, or his agents, to the person from whom taken, otherwise the commissioner shall notify the owner of such cans, jars or bottles that he has the same and upon application deliver the same to such owner.

ARTICLE 5.

Diseases of Domestic Animals; Calves and Veal; Pure Bred Stock; Certificates of Registry.

- Section 72. Control and suppression of disease.
 73. Report of disease.
 74. Regulations relating to importation.
 75. Sanitary regulations.
 76. Quarantine on animals or premises.
 77. Examination by veterinarian prerequisite to destruction of animal.
 78. Examination of cattle.
 79. Examination at request of owner; segregation; grading of herds.
 80. Certificate to healthy herds.
 81. Sale of animals affected with tuberculosis.
 82. Appraisers.
 83. Appraisal of diseased animals.
 84. Certificate of appraisal.
 85. Destruction of animals, disposition of carcasses.
 86. Post mortem examination of animals.
 87. Payments for animals killed.
 88. Compensation of owners of animals killed or appropriated by the state.
 89. Disposition and use of tuberculin and mallein.
 90. Violations of rabies quarantine; release and impounding of dogs.
 91. Shipping, slaughtering and selling veal for food.
 92. Shipping veal; receiving veal for shipment by common carriers.
 93. Assistance of local officers in enforcing article.
 94. Commissioner and employees are peace officers.
 95. Protecting the breeding of pure bred stock.*
 96. Certificates of registry of domestic animals.

§ 72. Control and suppression of disease. The commissioner may cause investigations to be made as to the best method for the control, suppression or eradication of infectious or communicable disease affecting domestic animals. Whenever any infectious or communicable disease affecting domestic animals shall exist or

Source.—
Agricultural law,
§ 92.

* So in original. [Does not conform to section heading.]

shall have recently existed outside this state, the commissioner shall take measures to prevent such disease from being brought into the state. Whenever any such disease shall exist or be brought into or break out in this state, the commissioner shall take measures promptly to suppress the same and to prevent such disease from spreading. He may issue and publish a notice stating that a specified infectious or communicable disease exists, may exist or has recently existed in the state, or in any designated county or other geographical district thereof, and warning all persons to seclude, in the premises where they may be at the time, all animals within this state, or within such county or district, or an adjoining county or district, that are of a kind susceptible to contract such disease; and ordering all persons to take such precautions against the spreading of the disease as the nature thereof may, in his judgment, render necessary or expedient and which he may specify in such notice. Such notice shall be published in such manner as the commissioner may designate. The commissioner may cause such notice to be posted on public service poles other than those carrying wires transmitting electricity for light or power, or on fences on the highway or on buildings abutting upon the highways, provided, if such fences or buildings be personally owned, the owners thereof consent to such posting. No person shall tear down, mutilate, deface or destroy any such notice or order issued by the commissioner and posted, as provided herein, during the pendency of such notice or order. The commissioner may alter or modify, from time to time, as he may deem expedient, the terms of any notice or order issued or made pursuant to this article and may at any time cancel or withdraw the same. The commissioner may, in behalf of the state, accept, in whole or in part, rules and regulations adopted by the secretary of agriculture of the United States under any act of congress providing for the control, suppression or eradication of communicable diseases in domestic animals, and he may co-operate with the authorities of the United States government within this state in the carrying out of such rules and regulations and the enforcement of the provisions of any such act so passed which are not in conflict with the statutes of this state.

Source.—
Agricultural law,
§ 92.

§ 73. **Report of disease.** Every person shall immediately report to the commissioner the existence among animals of any infectious or communicable disease coming to his knowledge. Every report shall be in writing and shall include a description of the diseased animal or animals, the location thereof, the name of the disease suspected, and, if known, the name and address of the owner or person in charge of such animal or animals.

Source.—
Agricultural law,
§ 94.

§ 74. **Regulations relating to importation.** The following regulations shall apply to the importation of domestic animals:

1. No person shall knowingly bring into this state any domestic animal which has an infectious or communicable disease, except in the case of pure bred registered bovine animals which have been removed from this state and have reacted to the tuberculin or other recognized test subsequent to such removal, may be re-

turned to this state upon written permission from the commissioner subject to such rules as he may prescribe in relation thereto.

2. Any person bringing into this state domestic animals for any purpose other than immediate slaughter without taking precaution to ascertain whether such animals have an infectious or communicable disease shall be presumed to have brought them in knowingly in violation of this section, if they are found to have such disease.

3. Animals received from outside the state under the supervision of the United States department of agriculture or the department of farms and markets of the state of New York, or for which a permit or certificate shall have been issued by either of such departments, shall be deemed to have been handled with due precaution.

4. Any person importing or bringing into this state neat cattle for dairy or breeding purposes shall report immediately upon bringing such cattle into the state to the department, in writing, stating the number of cattle thus brought in, the places where they were procured, the lines over which they were brought, their destination within the state and when they will arrive thereat; and if there be filed with the department at the time of filing such report or within ten days thereafter, a certificate by a duly authorized veterinary practitioner approved by the authorities of the state in which he resides or by an authorized veterinary inspector of the United States bureau of animal industry to the effect that he has duly examined such animals and that they are free from any infectious or communicable disease, the commissioner may issue a permit to such person to remove such cattle immediately. Otherwise such person shall detain such animals at the point of destination for at least twenty days for inspection or examination by the commissioner or his duly authorized agent. The provisions of this subdivision relating to advance reports to the department shall not apply to cattle imported into this state at a point where there is federal inspection.

5. Persons bringing into this state or receiving domestic animals from without the state shall give such other information to the department as it may from time to time request relating to such animals.

6. The commissioner may order all or any animals coming into the state to be detained at any place or places for inspection and examination, and if any of them after due examination be found affected with any infectious or communicable disease, such animals shall be condemned and slaughtered or held in strict quarantine.

7. Each animal brought into the state in violation of any of the provisions of this article shall constitute a separate and distinct violation.

8. Nothing contained in this section shall be construed to prevent or make unlawful the transportation of domestic animals through this state on railroads or boats.

Source.—
Agricultural law,
§ 95.

§ 75. **Sanitary regulations.** The commissioner may adopt and enforce rules regulating the sanitation of stables or other buildings used for the housing of domestic animals for the purpose of preventing the spread of infection and contagion among such animals and may provide for the inspection and examination of such stables and buildings. The commissioner may adopt and enforce rules concerning the equipment for and the method of the sanitary production of milk and may provide for the examination and scoring of dairies in accordance with such rules. He may also prescribe such rules as may be necessary for disinfecting and cleaning premises, buildings, railway cars, boats and other objects, from or by means of which infection or contagion of animals may be spread or conveyed.

Source.—
Agricultural law,
§ 96.

§ 76. **Quarantine on animals or premises.** The commissioner may order any animal or animals affected with communicable disease or which have been exposed to a communicable disease or which he believes to be suffering from or exposed to a dangerous communicable disease, to be put in quarantine and may order any premises or farm where such disease exists or shall have recently existed to be put in quarantine, so that no domestic animal be removed from or brought to the premises quarantined; and shall prescribe such regulations affecting animals, persons or property as he may deem necessary or expedient to prevent the dissemination of the disease from the premises so quarantined.

Source.—
Agricultural law,
§ 97.

§ 77. **Examination by veterinarian prerequisite to destruction of animal.** No animal shall be destroyed by the commissioner or by his order unless first examined by a veterinarian in the employ of the department, or whose work is approved by the commissioner, nor until such veterinarian renders a certificate to the commissioner, to the effect that he has made such examination, that, in his judgment, such animal is infected with a specified infectious or communicable disease, or that its destruction is necessary in order to prevent or suppress, or to aid in preventing or suppressing such disease.

Source.—
Agricultural law,
§ 98.

§ 78.¹³ **Examination of cattle.** The commissioner may cause a physical examination to be made by competent veterinarians of dairy cows whose milk is marketed in liquid form or manufactured into butter, cheese or other food for human consumption, where the conditions are such as to make it necessary in order to prevent the products containing pathogenic bacteria, and he may cause a bacteriological test to be made of the secretions or excretions of any herd or herds of dairy cows or of any cow or cows within the state. Such physical examinations may be made as frequently as available funds appropriated will permit, and as the conditions necessitate. An examination made by any qualified and approved examiner may be accepted by the commissioner. Except in advanced cases, if an animal is found to have tuberculosis the commissioner shall not take any action based upon such physical examination unless, the tuberculin test be applied and such test confirms the result of the physical examination. If from such examination an animal be deemed to be infected with

¹³ Section 78 is amended by L. 1922, ch. 255, post.

tuberculosis or any infectious or communicable disease or its condition be such as to render it undesirable for the production of milk or a menace to the health of other animals or persons, such animal shall be immediately removed from the herd, slaughtered or disposed of as the commissioner may prescribe according to the provisions of this article. If the owner or custodian of the herd so examined makes written request, the commissioner upon the recommendation of a veterinarian making such examination shall deliver or forward to such owner or custodian of such herd so examined a certificate stating that such examination has been made, the date thereof and such other information as may be deemed necessary by the commissioner. The commissioner may make such regulations as he may deem necessary for the classification of herds examined under this section and is hereby authorized and empowered, within the limits of his appropriation, to make arrangements at laboratories, either public or private, for the bacteriological tests above provided for.

§ 79. **Examination at request of owner; segregation; grading of herds.** The owner of a herd of cattle kept for dairy or breeding purposes within the state may apply to the commissioner for examination of his herd by the tuberculin, or other approved tests, subject to the following regulations:

Source.—
Agricultural law,
§ 89.

1. The application therefor shall be upon a blank form provided by the commissioner and shall include an agreement on the part of the owner of the herd to improve faulty sanitary conditions, to disinfect his premises if diseased cattle be found, and to follow directions of the commissioner designed to prevent the reinfection of the herd and to suppress the disease and prevent the spread thereof.

2. The commissioner shall cause such cattle to be examined accordingly, subject to the provisions of this article, and if any animal responds to such test, he may cause it to be slaughtered or held in strict quarantine.

3. If after examination an animal be found to be suffering from tuberculosis such animal shall be slaughtered under the provisions of this article, or the commissioner may enter into a written agreement with the owner for keeping such animal in segregation or the commissioner may, if the condition of such animal warrants it, consign such animal to any one of the experiment stations or farms owned or controlled by the state, or by any county of the state, or to the farms of such public institutions in the state as the commissioner shall approve, or to hospitals, sanitariums or other institutions existing in whole or in part for the purpose of suppressing tuberculosis, there to be kept and used for breeding, dairy or experimental purposes under regulations to be prescribed by the commissioner.

4.¹⁴ Subject to the rules of the commissioner an animal found to be diseased after such examination may continue to be used for breeding purposes and its milk may be used after proper pasteurization at such temperature and for such time as the commissioner may prescribe except that such milk may be used without

¹⁴ Subd. 4 is amended by L. 1922, ch. 255, post.

pasteurization for the feeding of calves or hogs, provided such calves or hogs so fed are killed under inspection approved by the commissioner.

5.¹⁵ The young of any such diseased animal shall immediately be separated from its mother and shall not be permitted to receive or be fed the milk from such affected animal so separated and quarantined until such milk has been pasteurized as herein provided, unless such calf is to be killed as provided in the last preceding subdivision of this section.

6. The commissioner may make rules for classifying herds tested under this section and for the purpose of giving recognition to herds which are in a healthy condition, he is hereby authorized to issue such certification as he may deem proper in relation to such herds.

Source.—
Agricultural law,
§ 99a.

§ 80. **Certificate to healthy herds.** For the purpose of giving recognition to other than segregated herds which are certified to him, after competent examination satisfactory to him, to be in a healthy condition, the commissioner is hereby authorized to issue such certificates as he may deem proper to the owner of such herd; to use such terms to designate such herds as will harmonize with federal designations of such herds and to adopt such rules as he may deem proper for the tagging, branding or marking of any animal or animals affected or believed to be affected with any communicable disease, or exposed thereto. In the event that such animals are branded it shall not be construed as cruelty to animals within the meaning of the penal law.

Source.—
Agricultural law,
§ 100.

§ 81.¹⁶ **Sale of animals affected with tuberculosis.** No animal showing physical evidence of tuberculosis or in which such disease shall have been indicated as a result of the tuberculin, or other approved test, shall be sold other than for immediate slaughter except under a written contract approved by the commissioner, signed by both parties, describing the animal and stating that it is believed to be tuberculous. No such animal shall be removed except for immediate slaughter from the premises where examined except upon the written permission of the commissioner. A contract of sale as provided by this section shall be executed in triplicate and one copy thereof delivered to the purchaser, one kept by the seller, and the other delivered to the commissioner.

Source.—
Agricultural law,
§ 101.

§ 82. **Appraisers.** The commissioner may employ from time to time appraisers of condemned animals. The chief or any assistant veterinarian shall have all the powers of any appraiser of condemned animals under this article.

Source.—
Agricultural law,
§ 102.

§ 83. **Appraisal of diseased animals.** Each animal directed to be slaughtered or taken over by the state to be kept segregated shall be appraised at the market value of such animal at the time of making the appraisal. If the value of a condemned animal as determined by the appraiser is not satisfactory to the owner, its value shall be determined by arbitrators, one of whom shall be appointed by the state appraiser and one by the owner. If they are unable to agree, a third arbitrator shall be appointed by

¹⁵ Subd. 5 is amended by L. 1922, ch. 255, post.

¹⁶ Section 81 is amended by L. 1922, ch. 255, post.

them. The value determined by such arbitrators shall after approval by the commissioner be final. The arbitrator selected by the owner shall be paid by him. If a third arbitrator be chosen he shall be paid by the state not more than five dollars per day and necessary expenses. Appraisers of condemned animals and arbitrators appointed under this article may administer oaths and examine witnesses for the purpose of determining the value of animals to be appraised under this article.

§ 84. **Certificate of appraisal.** The appraiser shall execute and deliver to the owner of a condemned animal or his legal representative a certificate stating the value thereof. If such value was determined by arbitrators, there shall be attached to such certificate a statement of the value so determined signed by at least two of the arbitrators. The form of such certificate shall be prescribed by the commissioner.

Source.—
Agricultural law,
§ 103.

§ 85. **Destruction of animals; disposition of carcasses.** The commissioner may prescribe rules for the destruction of animals affected with infectious or communicable disease, and for the proper disposal of their hides and carcasses and all objects which might carry infection or contagion. Whenever in his judgment necessary for the more speedy and economical suppression or prevention of the spread of any such disease he may cause to be slaughtered and afterward disposed of, in such manner as he may deem expedient, any animal or animals which by contact or association with diseased animals or other exposure to infection or contagion may be considered or suspected to be liable to contract or communicate the disease sought to be suppressed or prevented. The commissioner may seize and cause to be destroyed a carcass or any portion thereof affected with any communicable disease.

Source.—
Agricultural law,
§ 104.

§ 86. **Post-mortem examination of animals.** The carcass of every animal duly condemned and killed under the provisions of this article shall be examined by a veterinarian or physician designated by the commissioner for the purpose of determining whether or not disease existed in such animal. Such post-mortem examination shall be under rules prescribed by the commissioner and the report thereof shall show conditions found upon such examination duly verified by the person making such examination. Such report shall be filed with the commissioner and a copy thereof shall be sent or delivered to the owner or person in charge of the animals so examined.

Source.—
Agricultural law,
§ 105.

§ 87. **Payments for animals killed.** The commissioner shall issue his order for the amount due, as shown by certificate and statements on file in his office after he has found them to be correct, which amount shall be paid by the state treasurer on the warrant of the comptroller out of moneys appropriated therefor. The owner of animals condemned, taken over by the state or slaughtered as provided for herein shall also be entitled to and shall be paid interest on the amount due as shown by said certificate as herein provided for, after thirty days from the time such animals are ordered so taken or slaughtered by the commissioner.

Source.—
Agricultural law,
§ 106.

§ 88. **Compensation of owners of animals killed or appropriated by the state.** The following provisions shall govern the pay-

Source.—
Agricultural law,
§ 107.

ment of indemnity to owners of animals killed or appropriated by the state under the provisions of this article:

1.¹⁷ The value of an animal shall be taken to be the appraised value thereof except that for the purposes of subdivisions two, three, four and five of this section such value shall in no case exceed the sum of one hundred and twenty-five dollars for a registered purebred bovine animal or for a purebred bovine animal eligible to registry for which application has been duly and properly made for registration prior to the appraisal, and for any other bovine animal shall not exceed the sum of seventy-five dollars nor shall it exceed one hundred and twenty-five dollars for any equine animal. This provision shall apply to all claims which have not been liquidated at the time of the passage of this act as well as to all claims which shall hereafter accrue.

2. If upon post-mortem examination an animal is found not to have the disease for which killed or any dangerously infectious or communicable disease, the owner shall be allowed the value of such animal at the time of killing, unless such animal was killed on account of violation of quarantine regulations, as provided in this article.

3. If an equine animal be found upon post-mortem examination to have been suffering from glanders not manifest by physical symptoms, the owner thereof shall be paid therefor ninety per centum of its value. If the animal has glanders showing physical symptoms the owner thereof shall be paid therefor twenty-five per centum of its value.

4. If a bovine animal be found upon post-mortem examination to have been suffering from tuberculosis, or if such animal be taken over by the state as provided by this article, the owner thereof shall be paid ninety per centum of its value.

5. No animal killed or taken under the provisions of this article shall be paid for as herein provided unless, if a bovine, it shall have been within the state of New York for at least six months, and if an equine for at least twelve months.

6.¹⁸ The commissioner is hereby authorized to make rules in reference to the official inspection of the carcasses of animals so killed, and to provide for the suitable marking or branding of carcasses passed or condemned. The commissioner may make such rules as he deems necessary or expedient for the proper disposal of carcasses or parts thereof. If the meat of a slaughtered bovine animal shall be passed for use as food under official regulations, the same and all other parts of the animal shall be and remain the property of the owner of the slaughtered animal. In all other cases, the carcass and all parts of the animal, or the net proceeds of the sale thereof, shall be and remain the property of the owner of the slaughtered animal in addition to the indemnity provided herein, provided, however, that in neither case shall the total amount received by the owner of the animal from the proceeds of the carcass and parts thereof and the indemnity by the state and the indemnity from the federal government, if any, in

¹⁷ Subd. 1 is amended by L. 1922, ch. 255, post.

¹⁸ Subd. 6 is amended by L. 1922, ch. 255, post.

the aggregate exceed the appraised value of the animal at the time of slaughter. If the proceeds of such sale and such indemnities do exceed the appraised value of the animal at the time of slaughter, then the indemnity paid by the state shall only equal the difference between the aggregate of such proceeds or value of the parts and carcass thereof, and the indemnity received from the federal government, if any, and the appraised value of such animal at the time of slaughter. The carcass, and all parts of such animal, shall be disposed of under rules or regulations made by the commissioner.

7. No indemnity shall be paid to any person who shall have wilfully concealed the existence of disease among his animals or upon his premises, or who in any way by act or by wilful neglect has contributed to spread the disease sought to be suppressed or prevented, or who shall have wilfully neglected to take necessary precaution or obey instructions given him by the commissioner or neglected to assist in the control or eradication of any infectious or communicable disease among his animals.

8. Except as herein provided no indemnity shall be paid for any animal which upon post-mortem examination is found to have the disease on account of which it was killed, or any dangerously infectious or communicable disease that would warrant the destruction of such animal.

9. If the disease known as apthous fever be found to exist within this state and the commissioner deems it necessary to properly control, suppress or eradicate such disease, to order the slaughter of domestic animals or the destruction of other property or both, the owner of animals so slaughtered or property so destroyed shall receive indemnity in the manner following: The amount to be paid for each bovine animal so destroyed shall be fixed in the same manner as provided for in this section but shall not exceed the sum of two hundred dollars for any one bovine animal so taken. The value of animals so destroyed and the amount due owners as provided herein, less the amounts paid or to be paid by the federal government, shall be paid upon the audit and warrant of the comptroller to owners entitled thereto in the same manner as provided in the last preceding section.

§ 89. **Disposition and use of tuberculin and mallein.** The commissioner is hereby authorized to make such rules and promulgate such orders for the proper control, use or distribution of tuberculin or mallein as he may deem necessary. The following general provisions shall govern the disposition and use of tuberculin and mallein within the state:

Source.—
Agricultural law,
§ 103.

1. All tuberculin or mallein sold, given away or used, shall bear a label stating the name and address of the manufacturer, the degree of strength and dosage recommended, and the date of its preparation.

2. All tuberculin or mallein sold or given away for use in testing bovine or equine animals shall be reported, in writing, to the commissioner within one week after such sale or gift is made. Such report shall be signed by the person making the gift or sale and shall state the name and address of the person to whom such

tuberculin or mallein has been sold or given, and the amount supplied.

3. Any person, firm, corporation or institution bringing or causing tuberculin or mallein or a biological product containing living pathogenic organisms to be brought into the state to be used therein in the treatment of or administration to domestic animals shall, within one week thereafter, make a report thereof to the commissioner stating the manufacturer thereof, the quantity so brought in and giving such other information in relation thereto as the commissioner may request.

4. The commissioner shall print, in appropriate form, blanks for making and keeping records of such tests and other necessary data for the purposes of this article.

5. Any person using tuberculin or mallein in testing animals shall keep a correct record thereof, and, if requested by the commissioner, any person, firm or corporation making such tests shall within one week thereafter report to the commissioner giving a detailed account of the tests thus made, including the description of animals, the location of the farm or farms upon which tests were made, and the name and address of the owner or custodian. If the commissioner desires to cause a physical examination to be made of any animal so tested, or a bacteriological examination of its milk to be made, the owner or custodian of any such animal that has reacted shall indicate to the commissioner, or to the person designated by him, any animal that shall have been subjected to any such test and give such information as the commissioner may direct with reference thereto, or of previous tests of such animal and such other information relating thereto as the commissioner may require.

6. If such tests be made by a nonresident of the state, the owner or custodian of the animals thus tested shall make such report to the commissioner as he may require.

7. No person shall knowingly inject into any bovine or equine animal as or for tuberculin or mallein any substance which is not tuberculin or mallein.

8. No person shall treat, except by consent of the commissioner for experimental purposes, any bovine or equine animal with any material or substance, or in any manner, for the purpose or with the effect of preventing a normal reaction on the part of such animal to the tuberculin or mallein test.

9. No person shall give a certificate or statement showing or tending to show that an animal has been tested or examined and found not affected with tuberculosis or glanders or other communicable disease unless the character of such test or examination is stated, and was made in a proper way, and that upon such test or examination such animal failed to give any evidence of such disease.

§ 90. **Violations of rabies quarantines; release and impounding of dogs.** If the commissioner shall quarantine any particular districts or territory for the purpose of stopping or preventing the spread of the disease known as rabies, and if any dog be found within the said quarantine district in violation of

said quarantine or regulation, any person may catch or cause to be caught such dog and have him impounded or confined. If such dog is thereafter not found to be affected with the disease known as rabies, and satisfactory proof of such fact is presented to the commissioner, he may release the said dog to the owner thereof upon due application therefor. Upon receipt of such release the owner of such dog shall pay a penalty of ten dollars to the treasurer or chief officer of the city, if such district be located wholly within a city, and otherwise to the treasurer of the county in which such dog is impounded. Upon due proof of such payment the owner thereof shall be entitled to the possession of such dog. If application for such release be not made to the commissioner within three days after such dog is found not to be affected, or if such penalty be not paid by the owner within three days after the receipt of such release, or if it is found impracticable after reasonable effort to catch and impound such dog which is within said quarantine district in violation of such quarantine or regulation, then any person may kill or cause to be killed such dog, and shall not be held liable for damages for such killing.

§ 91. **Shipping, slaughtering and selling veal for food.** No person shall slaughter or expose for sale, or sell any calf or carcass of the same or any part thereof, unless it is in good healthy condition. No person shall sell or expose for sale any such calf or carcass of the same or any part thereof except the hide, unless it was, if killed, at least three weeks of age at the time of killing. No person or persons shall bring or cause to be brought into any city, town or village any calf or carcass of the same or any part thereof for the purpose of selling, offering or exposing the same for sale, unless it is in a good healthy condition, and no person or persons shall bring any such calf or carcass of the same or any part thereof except the hide into any city, town or village for the purpose of selling, offering or exposing the same for sale, unless the calf is three weeks of age, or, if killed, was three weeks of age at the time of killing, provided, however, that the provisions of this section shall not apply to any calf or carcass of the same or any part thereof, which is slaughtered, sold, offered or exposed for sale, for any other purpose than food. Any person or persons exposing for sale, selling or shipping any calf or carcass of the same will be presumed to be so exposing, selling or shipping the said calf or carcass of the same for food. Any person or persons shipping any calf for the purpose of being raised, if the said calf is under three weeks of age, shall ship it in a crate, unless said calf is accompanied by its dam. Any person shipping calves under three weeks of age for fertilizer purposes must slaughter such calves before such shipping. Any person or persons duly authorized by the commissioner may examine any calf or veal offered or exposed for sale or kept with any stock of goods apparently exposed for sale, and if such calf is under three weeks of age, or the veal is from a calf killed under three weeks of age, or from a calf in an unhealthy condition

Source.—
Agricultural law,
§ 110.

when killed, he may seize the same and cause it to be destroyed and disposed of in such manner as to make it impossible to be thereafter used for food.

Source.—
Agricultural law,
§ 111.

§ 92. **Shipping veal; receiving veal for shipment by common carriers.** It shall be unlawful for any corporation, partnership, person or persons to ship to or from any part of this state any carcass or carcasses of a calf or calves or any part of such carcass except the hide, unless they shall attach to every carcass or part thereof so shipped, in a conspicuous place, a tag, that shall stay thereon during such transportation, stating the name or names of the person or persons who raised the calf, the name of the shipper, the place of shipping and the destination and the age of the calf. No person or persons shall mutilate or in any way disfigure such tag in such way as to conceal information given thereon or render the same illegible. No railroad company, express company, steamboat company or other common carrier shall carry or receive for transportation any carcass or carcasses of calves, or any part of the same except the hide, unless the said carcass or carcasses or parts thereof shall be tagged as herein provided.

Source.—
Agricultural law,
§ 112.

§ 93. **Assistance of local officers in enforcing article.** The commissioner may call upon the sheriff, under-sheriff or deputy sheriff in a county to carry out and enforce the provisions of any notice, order or regulation which he may make pursuant to this article, and every such officer shall obey every order and instruction received from him in the premises. The expense incurred by any such officer in carrying out and enforcing the provisions of such notice, order or regulation shall be a state charge, to be audited by the commissioner and paid by the state treasurer on the warrant of the comptroller in the same manner as other state charges are paid, notwithstanding the provisions of any local or special act fixing or limiting the compensation or expenses payable by the county to its sheriff, under-sheriff or a deputy sheriff. If a city or part thereof be included in any notice, order, rule or regulation of the commissioner made under this article, the commissioner may call upon the commissioner of public safety or the police department of such city to enforce the same within the city or portion thereof affected; and the commissioner of public safety or police department shall obey every order or instruction so made or issued; and the expenses incurred therefor shall be a state charge.

Source.—
Agricultural law,
§ 113.

§ 94. **Commissioner and employees are peace officers.** For the purpose of enforcing the provisions of this article, the commissioner, assistant commissioners and other officers and employees of the department shall be deemed peace officers and have all the rights and powers of peace officers.

Source.—
Agricultural law,
§ 321.

§ 95. **Protecting the breeding of pure bred stock; penalty.** It shall be unlawful for any person or persons owning or in the possession of any bull of the age of more than nine months, any stallion of the age of more than eighteen months, or buck or boar over five months of age, to suffer or permit such animal or

animals to go, or range, or run at large on any lands or premises without the consent of the person entitled to the possession of such lands or premises. Any person who knowingly violates the provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of ten dollars, or by imprisonment for not more than ten days, for the first violation, and upon conviction of any subsequent violation, by a fine of twenty-five dollars or by imprisonment for not more than twenty-five days.

§ 96. **Certificates of registry of domestic animals.** Certificates of registry, and of transfer of domestic animals when issued by and under seal of a duly organized and recognized corporation or association formed for the purpose of registering pure-bred domestic animals, may be received in evidence in any action or proceeding, and shall be presumptive evidence of the facts and circumstances stated therein.

Source.—
Agricultural law,
§ 322.

ARTICLE 6.

Licensing of Stallions and Breeding of Horses.

Section 97. Enrollment of stallions required.

98. Duties of commissioner.

99. Certificate of enrollment; inspection; disqualifying diseases.

100. Uses of stud book.

101. Enrollment; how made.

102. Issue of certificate of enrollment.

103. Posting certificate of enrollment.

104. Fees for enrollment.

105. Service of unenrolled stallion.

§ 97. **Enrollment of stallions required.** No person, firm or corporation shall use or offer for use for public service in this state any stallion, unless and until he shall have caused the name, description, breeding and pedigree of such stallion to be enrolled and such stallion has been inspected in accordance with the provisions of this article and a certificate, showing such enrollment and inspection, has been issued as hereinafter provided.

Source.—
Agricultural law,
§ 120.

§ 98.¹⁹ **Duties of commissioner.** It shall be the duty of the commissioner to cause to be verified and enrolled the breeding and pedigree of stallions, to inspect certificates of conditions of soundness, to issue stallion certificates of enrollment, and to perform such other duties as may be necessary to carry out the provisions of this article.

Source.—
Agricultural law,
§ 121.

§ 99.²⁰ **Certificate of enrollment; inspection; disqualifying diseases.** In order to obtain a certificate of enrollment herein provided for, the owner of each stallion shall obtain a certificate of the condition of soundness of said stallion signed by a veterinarian, approved by the commissioner, who shall make oath to said certificate before a notary public or any officer duly authorized to administer oaths, and shall forward this certificate of the condition of soundness, together with the original stud book

Source.—
Agricultural law,
§ 122.

¹⁹ Section 98 is amended by L. 1922, ch. 610, post.

²⁰ Section 99 is amended by L. 1922, ch. 610, post.

certificate of registry of pedigree of the stallion in cases of pure bred stallions, and a certified statement of the breeding in all other cases, and in all cases all other necessary papers relating to his breeding and ownership, to the commissioner, upon inspection and verification of which a certificate of enrollment shall be issued by the commissioner. Any incurable, infectious or contagious disease with which the stallion may be afflicted shall disqualify said stallion for public service. Any transmissible unsoundness with which the stallion may be afflicted shall be named as such in said certificate of enrollment. The following diseases and unsoundnesses shall be defined as transmissible, for the purpose of this article: recurrent ophthalmia (moon blindness); cataract; amaurosis (glass eye); laryngeal hemiplegia (roaring or whistling); pulmonary emphysema (heaves, broken wind); string halt; bone spavin, side bone, nevicular diseases; curb, when associated with curby conformation of the hocks. Certificate of the condition of soundness shall be filed with the application for the certificate of enrollment, and all enrollment certificates shall expire on the first day of January each year following date of issuance, and must be renewed annually before the first day of April following until the stallion is fifteen years old, and after the date of the issuance of the first certificate of enrollment, certificate of the condition of soundness shall not be required again if the stallion is fifteen years old or over; provided that the stallion is at that time sound and free from any and all incurable, infectious and transmissible diseases, as defined by this article, and that it is so shown on the certificate of enrollment issued.

Source.—
Agricultural law,
§ 122.

§ 100.²¹ **Use of stud book.** The commissioner shall use for his standard for action in determining the purity or impurity of the breeding of stallions the stud books and signatures of the proper officers of the recognized American and Canadian horse register associations, societies or companies.

Source.—
Agricultural law,
§ 124.

§ 101.²² **Enrollment; how made.** 1. Every stallion shall be enrolled in the name of the owner at the time of the enrollment, and in case of the change of ownership, the enrollment shall be deemed to be canceled, unless within thirty days thereafter evidence of a change of ownership satisfactory to the commissioner has been furnished to the commissioner, in which case a transfer certificate shall be issued by the commissioner.

2. When a certificate of enrollment has been issued after the first day of August in any year, the enrollment and certificate of enrollment and inspection of the stallion shall remain in force until the thirty-first day of December in the next succeeding year, and when the enrollment has been made before the first day of August in any year the enrollment and certificate thereof shall remain in force until the thirty-first day of December next following.

3. In the case of any other stallion the report of inspection shall be valid for one year only, except as provided in subdivision two.

²¹ Section 100 is amended by L. 1922, ch. 610, post.

²² Section 101 is amended by L. 1922, ch. 610, post.

§ 102.²² **Issue of certificate of enrollment.** The commissioner upon consideration and inspection of the papers supplied relating to the inspection, breeding and ownership of the stallion, and upon payment of the fee fixed by this article shall make such enrollment of the name, description and pedigree of the stallion in the register herein provided for as may be deemed warranted, and shall issue a certificate in accordance with such enrollment to the owner of the stallion.

Source.—
Agricultural law,
§ 126.

§ 103.²⁴ **Posting certificate of enrollment.** The owner of any stallion used for public service in the state shall post and keep affixed correct copies of the certificate of enrollment of such stallion issued under the provisions of this article, in conspicuous places both within and upon the outside of his home stable, and the stable or building where the stallion is used for public service and at any farm or place away from his home. Every bill or poster issued by the owner of any stallion enrolled under this article, or used by him or his agent for advertising such stallion, shall contain a correct copy of the enrollment certificate printed in bold faced Roman type not smaller than long primer (ten point), and the first mention on said bill or poster of the name of the stallion shall be preceded by the words, "pure breed," "grade," "standard-breed," "non-standard breed," or "scrub," and the condition of soundness of said stallion indicated by the word "sound," or "unsound" in accordance with the wording of the enrollment certificate, the same shall be printed in type not smaller than the largest type in which the name of said stallion shall be printed on said bill or poster.

Source.—
Agricultural law,
§ 126.

§ 104.²⁵ **Fees for enrollment.** There shall be paid to the commissioner before the issuance of any certificate herein provided for, the following fees: For enrollment, three dollars; for renewal of enrollment, one dollar and for transfer certificate, fifty cents. Such fees shall be paid in to the state treasury pursuant to the state finance law.

Source.—
Agricultural law,
§ 127.

§ 105.²⁶ **Service of unenrolled stallion.** On and after the first day of January, nineteen hundred and seventeen, no stallion shall be allowed to stand, or be offered for service, in the state of New York, which is not enrolled and certified by the commissioner, and from and after such date no fees shall be collectible for the services of such stallions.

Source.—
Agricultural law,
§ 129.

ARTICLE 7.

Licensing of Dogs and Protection of Domestic Animals Therefrom.

Section 106. Definitions.

107. Dogs to be licensed; fees.

108. Kennel licenses.

109. Assessors to prepare lists of dogs.

110. Issuance of licenses; penalty for failure to obtain.

²² Section 102 is amended by L. 1922, ch. 610, post.

²⁴ Section 103 is amended by L. 1922, ch. 610, post.

²⁵ Section 104 is amended by L. 1922, ch. 610, post.

²⁶ Section 105 is amended and §§ 105a, 105b are added by L. 1922, ch. 610, post.

- Section 111. Tags to be furnished; how attached.
 112. Registry of licenses.
 113. Tags and blanks to be furnished by department of farms and markets; forms.
 114. Killing unlicensed dog.
 115. Dogs to be killed for attacking animals.
 116. Dogs running at large; order of department of farms and markets.
 117. Dog killed on order of court or justice.
 118. Town and city clerks to report failure to pay; penalties; fees of officers and magistrates.
 119. Damages for injuries caused by dogs.
 120. Amount of damages to be paid by the county; assignment of claim to county.
 121. Report as to dog killed.
 122. Disposition of fees, penalties and damages recovered.
 123. Recovery of penalties; actions for damages.
 124. Apportionment to towns and cities of surplus moneys.
 125. Pounds and dog catchers in certain counties.
 126. Application of act; saving clause.
 127. Article to be enforced by village authorities.

Source.—
 Agricultural law,
 § 181.

§ 106. **Definitions.** When used in this act, the word "owner," referring to the owner of a dog, includes a person harboring or keeping such dog. The word "kennel," when so used, means a place where five or more dogs over six months old are harbored or kept, which dogs are registered in or by a recognized registry association. The word "dog," when so used, shall include a bitch, except where provision is made for the licensing of dogs and the payment of license fees.

Source.—
 Agricultural law,
 § 182.

§ 107. **Dogs to be licensed; fees.** A person who owns, harbors or keeps a dog shall obtain a license therefor, as provided herein, and shall pay the following fees: (1) two dollars for each male dog and spayed female dog; (2) five dollars for each bitch; (3) twenty dollars for a kennel of dogs, or such sum not in excess of such sum of twenty dollars as will equal two dollars for each dog over six months old harbored or kept in such kennel, for which a kennel license shall be given as hereinafter provided. Before any person shall be entitled to obtain a license for a spayed female dog at the reduced fee herein provided, he shall produce and deliver to such town or city clerk an affidavit made by the owner or a certificate in writing signed by a duly licensed veterinary surgeon showing that such female dog has been spayed. There shall be paid to the town or city clerk, in addition to each license fee, the sum of twenty-five cents as a registration fee, for the services of such clerk.

Application for a license shall be made to the clerk of the town or city in which the dog is harbored or kept. Such application shall be in writing and shall state the name, sex, breed, age, color and marking of the dog for which a license is sought.

When the applicant for such license shall have complied with

the provisions of this section, the town or city clerk shall thereafter issue a license to such applicant and shall deliver to such applicant a tag bearing the same number that the license bears.

Licenses obtained hereunder subsequent to the year beginning March first, nineteen hundred and twenty, shall be applied for on or before July first and shall be for a period of one year. Licenses thereafter issued shall be for the period from July first until June thirtieth in each following year. Licenses shall not be required for dogs under the age of four months that are not allowed to run at large, or under the age of six months if kept in a kennel owned by the breeder thereof, providing such dogs are not allowed to run at large. If such dog shall become of the age of six months if kept in a kennel, after the first day of March, nineteen hundred and eighteen, then such dog shall be subject to a license as herein provided. Each license of a dog first issued shall take effect when issued, and shall expire on the last day of June following its issuance. Each license in renewal of a license already issued shall be for a term of one year beginning on July first, except as otherwise herein provided.

§ 108. **Kennel licenses.** The owner of a kennel may apply for and obtain a kennel license, which shall be in lieu of the license issued under this chapter for each dog harbored or kept in such kennel. Upon the procuring of such license for a kennel, the owner or owners thereof shall be exempt from any further license fee in respect to such dogs for the year for which such license is issued. The applicant shall present with his application for a kennel license a registry certificate of the registry association registering the dogs in such kennel. A copy of such certificate shall be filed with the city or town clerk. If the owner of a kennel shall harbor or keep a dog which is not covered by such a certificate, such dog shall be licensed separately and the same fee paid as in the case of other dogs. A kennel license shall continue for the same period as licenses issued under the preceding section.

Source.—
Agricultural law,
§ 133.

§ 109. **Assessors to prepare lists of dogs.** The assessors of each town or police department of a city shall annually in the month of June ascertain by due inquiry the dogs owned, harbored or kept in such town or city. Each owner of a dog shall answer all questions relative to ownership of such dog, and if he answers falsely or refuses to answer such questions, he shall be subject to a penalty of ten dollars, to be recovered in an action brought therefor as hereinafter provided. The assessors of each town and the police department of each city shall prepare a list containing the names and addresses, by street and number, if any, of the owners of dogs in such town or city, and the number and sex of dogs owned, harbored or kept by each owner, and whether such dogs are kept or harbored in kennels. There shall be appended to such list the affidavit of the assessors to the effect that they have ascertained by due inquiry the dogs owned, harbored or kept in such town or city and that such list is a true list of the owners of dogs in such town or city and the number and sex of dogs owned, harbored or kept by each owner, so far as the assessors have been

Source.—
Agricultural law,
§ 134.

able, by the exercise of due diligence, to ascertain the same. Such list shall be prepared in duplicate, one of which shall be filed with the town or city clerk and the other with the department of farms and markets, on or before the tenth day of July following. The assessors shall receive as compensation for their services the sum of twenty cents for each dog listed by them, which shall be paid by the county treasurer from moneys collected under this article, when such bills have been duly certified to the said county treasurer by the commissioner.

Source.—
Agricultural law,
§ 185.

§ 110. **Issuance of licenses; penalty for failure to obtain.** A license shall be issued upon application being made therefor and upon payment of the fee hereinbefore prescribed. Such license shall be in the form prescribed by the department of farms and markets, and shall be executed by the town or city clerk. Each license shall state the year for which it was issued and shall bear a serial number. An owner of a dog, who fails or refuses to obtain a license for such dog within thirty days after he is required to do so under the provisions of this chapter, shall be subject to a penalty of ten dollars.

Source.—
Agricultural law,
§ 186.

§ 111. **Tags to be furnished; how attached.** The city or town clerk issuing such license shall at the time of the issuance thereof deliver to the owner a metal tag. Such tag shall bear the same date and serial number as the license. The owner of the dog so licensed shall place and keep around the neck of such dog a collar of leather or other suitable material, and shall attach such tag to such collar by means of rivets, metal bands or other suitable devices. An owner of a dog shall not permit a licensed dog to be without such collar and tag during the period of the license.

And where the license thus issued is the kennel license hereinbefore provided for, it shall be the duty of the city or town clerk to deliver to the person to whom the kennel license is delivered as many metal tags as there are dogs over six months of age covered by such license. The town or city clerk shall also be paid by the person to whom the same is issued a tag fee of twenty-five cents for each tag issued.

A new tag with a new number shall be furnished to the owner of a licensed dog by the city or town clerk, in place of the original tag, upon presentation of the license and proof of the loss of such original tag. The clerk shall endorse the new number of such tag on such license and shall enter it in the register. The clerk shall receive for his services in issuing such new tag the sum of twenty-five cents.

Source.—
Agricultural law,
§ 187.

§ 112. **Registry of licenses.** The town or city clerk shall register the dogs and kennels licensed under the provisions of this chapter, in a book to be provided for such purpose. The books, for the registry of such licenses shall be furnished by the department of farms and markets and shall be kept in the manner prescribed by it. Such register shall contain the name of the owner of the dog or kennel licensed, the date of the license, and the number of the tag or tags issued for each licensed dog or kennel. Such clerk shall furnish, upon the demand of the department of farms and markets, transcripts of the whole or any part of such

register, and of any other records required to be kept by this chapter, and shall receive therefor compensation to be fixed by the department.

§ 113. **Tags and blanks to be furnished by department of farms and markets; forms.** The forms of applications for licenses and of other statements, reports, certificates and papers required to be filed or presented under the provisions of this chapter shall be prescribed by the department of farms and markets. The department shall furnish to each town or city clerk (1) a sufficient number of blank applications for licenses and licenses for the use of such clerk in licensing dogs as provided herein; (2) blank statements, reports, certificates and other documents required for the purposes of this chapter; (3) a sufficient number of suitable metal tags required to be worn by dogs licensed as provided in this chapter. The cost of such blanks and tags shall be paid by the department out of moneys appropriated therefor.

Source.—
Agricultural law,
§ 130.

§ 114. **Killing unlicensed dog.** The fact that a dog is without a tag attached to a collar, as hereinbefore required, shall be presumptive evidence that such dog is unlicensed and that a tag was not issued and attached as so required. An action shall not be maintained for an injury to or destruction of a dog without a tag. A representative designated by the department of farms and markets, or any peace officer, shall seize an unlicensed dog, either on or off the owner's premises, or if the dog be not delivered to him by the owner on request and he cannot with reasonable effort secure him, he may after pursuit, kill the dog. If the owner of the dog so seized does not, within five days after such seizure, obtain a proper license, and pay the sum of two dollars as the cost of seizure, such dog may be killed or sold by such representative or peace officer. The proceeds of the sale and the charge made for such seizure shall be paid into the county treasury. Peace officers either seizing or killing or both seizing and killing dogs under the provisions of this section shall be paid by the county treasurer two dollars for each dog seized and two dollars for each dog killed, after the claim therefor has been duly allowed by the board of supervisors. Incorporated societies for the prevention of cruelty to animals, humane, or other like associations or corporations, now performing duties or exercising functions with reference to dogs in cities, under existing provisions of law or contracts entered into by them with the several cities of the state in which such duties or functions are performed or exercised, shall continue to perform such duties or exercise such functions in accordance with such provisions of law or the terms of such contract. A city may designate a humane or other like association or corporation, or any of the officers or agents thereof, or any city officer or officers to enforce the provisions of this article in such city, and may fix the compensation or salary of the person or persons, association or corporation performing the services, and may provide for the disposition of fees earned in the performance of such duties, either by payment into the city treasury or otherwise. But the department of farms and markets may by an order revoke the right of any such society, asso-

Source.—
Agricultural law,
§ 130.

ciation or corporation, or officer or agent thereof to perform such duties or exercise such functions, if after notice to such society, association, corporation, or officer or agent thereof, and a hearing thereon, it shall appear that such society, association, corporation, officer or agent, has failed to discharge properly its duties or functions under such provisions of law or contracts, and may designate any such association, corporation, officer or agent or a representative of the department to enforce the provisions of this article in the place of the association or corporation, officers or agents whose authority is so revoked. Such order shall not be effective until approved by the governor. Whenever requested by any municipality, it shall be the duty of the department of farms and markets to permit impounded dogs required to be killed under this chapter, to be killed by or under the direction of such a society, association or corporation. Contracts hereafter entered into between an incorporated society for the prevention of cruelty to animals and the mayor of a city of the second class, under the provisions of section two hundred and thirty of the second class cities law, shall be subject to the approval of the department of farms and markets and shall when so approved be in full force and effect, subject to the provisions of this article, provided that the compensation to be paid under such contracts shall not exceed the amount of the surplus apportioned to such cities as provided in this article. Any city or town may impose restrictions and limitations upon the keeping and running at large of dogs within such city or town, although such limitations or restrictions are not otherwise imposed by this article.

Source.—
Agricultural law,
§ 139a.

§ 115. **Dogs to be killed for attacking animals.** Any person may kill a dog while it is attacking, chasing or worrying any domestic animal having a commercial value, or attacking fowls, or while such dog is being pursued thereafter.

Source.—
Agricultural law,
§ 139b.

§ 116. **Dogs running at large; order of department of farms and markets.** The department of farms and markets of its own motion or on the application of at least two residents, may issue an order restraining the owner of a dog, to be described in such order as dangerous to persons, domestic animals or fowl, from permitting such dog to run at large outside of and away from the premises of the owner, during a time to be specified in such order. Such order shall be served personally or by registered mail on the owner, or in case of his absence on an adult member of the family or person in charge of the premises where such dog is harbored. An owner of a dog who, after the service of such order, causes or permits such dog to run at large in violation of such order, shall be subject to a penalty of twenty-five dollars for each offense. Whenever in the judgment of the department of farms and markets other regulations in this article for the supervision of dogs and the protection of domestic animals and fowls have proved inadequate for such purposes in a town or county or part thereof, the said department may make and publish an order that dogs in such town or county, or part thereof, shall be securely confined between sunset and one hour after sunrise during such portion of the year as may be deemed

necessary by the department; and whenever the damage done by dogs to domestic animals in any county in any license year shall exceed eighty per centum of the fees collected for licenses in such year, such department shall make and publish an order that the dogs in such county shall be securely confined between sunset and one hour after sunrise during the next succeeding license year. Such order shall be posted in at least three public places in such town and published in a newspaper, if any, published in such town, and if there be no such paper, in a newspaper, if any, published in the county in which such town is located; provided, that, if such order shall apply to a county or part thereof, it shall be posted in three public places in each town of such county or part thereof and published in three newspapers published in such county, if so many newspapers are published in such county, and if not, in such newspapers as are published in the county. If any owner of a dog, or person harboring the same, refuse or neglect to confine his dog as required by such order he shall forfeit the sum of ten dollars to be recovered by the department of farms and markets, and any representative of the department or other peace officer shall seize and impound a dog permitted to run at large in violation of said order and hold the same until said penalty is paid, and if not paid within five days, sell or kill said dog in the same manner as if the dog had not been licensed and tagged under the provisions of this article, for which services he shall be paid two dollars for seizure and two dollars for killing and disposing of the carcass of such dog. The duly designated representative of the department or any peace officer shall, and any other person may, kill on sight any dog running at large in violation of this section, provided he shall first have made reasonable effort to secure said dog and failed. When seizure of a dog is made under any of the provisions of this article notice of such seizure shall be immediately given to the owner thereof if he may be found upon reasonable inquiry within the time during which such dog is required to be held prior to his disposal as provided herein. Such notice may be served upon the owner either personally, by registered mail, or in case of the absence of the owner from home, by leaving a copy thereof with the person in charge of the premises where such dog was harbored. Every dog seized under the provisions of this article shall be properly fed and cared for by and at the expense of such town or city until disposition thereof be made as herein provided.

§ 117. **Dog killed on order of court or justice.** If a dog shall attack a person who is peaceably traveling upon a street or highway or is otherwise peaceably conducting himself on premises where he may lawfully be, or shall attack his horse or team or any domestic animal having a commercial value, which is peaceably traveling on a street or highway in charge of such person, or on premises where it may lawfully be, and complaint thereof be made by the person attacked, or if a child, by his parent or guardian, or in case of an animal, by the owner or person in charge of the same, or by a duly designated representative of the department of farms and markets, or any peace officer,

Source.—
Agricultural law,
§ 129c.

to a justice of the peace of the town or, within the city, to a police justice or judge of a municipal court having the general jurisdiction of a justice of the peace, such justice or court shall inquire into the complaint, upon notice of not less than three days to the owner of the dog. Upon the hearing of any such complaint the justices, magistrates, constables and other officers shall be entitled to receive the same fees as provided by the justice court act in the trial of civil actions in courts of justices of the peace. If upon investigation of the facts he is satisfied of the truth of the complaint, such justice or court shall order the owner to kill the dog immediately. An owner who fails to kill such dog within forty-eight hours after the service, either personally or by registered mail, upon him of such order, shall be subject to a penalty of twenty-five dollars, and the further penalty of two dollars for each twenty-four hours thereafter until the dog is killed. If such order be issued and the owner fails to kill such dog as required therein, a duly designated representative of the department of farms and markets or any peace officer shall kill such dog on or off the premises of the owner, and any person may kill such dog if running at large off the premises of the owner.

Source.—
Agricultural law,
§ 159d.

§ 118.²⁷ **Town and city clerks to report failure to pay; penalties; fees of officers and magistrates.** If any owner of a dog in a town or city neglects or refuses to obtain a license and pay the license fee to the town or city clerk as herein required, the town or city clerk shall, within ten days from the date upon which such payment is required to be made, report such fact to a justice of the peace or other magistrate in the town or city where such owner resides, to the department of farms and markets and to the county treasurer of the county. Such justice of the peace or magistrate shall forthwith issue a summons in the name of the people of the state of New York, as plaintiff, against each of the dog owners so reported to him by the town or city clerk and shall give the same to a constable or peace officer to be served upon the defendant named therein; such summons to be returnable within six days' time, Sundays excepted, and said summons shall be in form as follows:

..... Court of
Town of.....
County of.....

People of the State of New York,	}	Summons.
Plaintiff,		
against		
.....		
Defendant.		

To the above named defendants and each of them:

You are hereby summoned and required to appear in this action in the court of, at in the town

²⁷ Section 118 is amended by L. 1922, ch. 361, post.

of on the day of nineteen hundred and, at o'clock in the, to answer the complaint of the plaintiff in this action, which is an action for the collection of a penalty of ten dollars for a violation of the provisions of the agricultural law in not procuring a license for a dog or dogs owned or harbored by you during the dog license year ending June thirtieth, nineteen hundred and, and that if you fail to appear and answer, judgment will be taken against you by default for the penalty together with the costs of this action.

.....
Justice of the Peace or
Magistrate.

Dated at, this.....
day of, in the year of
our Lord one thousand nine hundred
and

If the said defendant shall, before the return day, procure a license for the dog or dogs he is harboring and present receipt therefor from the town clerk to the justice of the peace on the return day, then no judgment shall be rendered against such defendant. But if said defendant does not procure such license and present the receipt and evidence to show that he has procured a license for such dog or dogs on or before the return day, then the said justice shall cause the town clerk, and such other witnesses as may be deemed necessary, to be examined under oath on the said return day as to the correctness of the report made to the said justice that the defendant is harboring or has harbored during the current dog license year ending June thirtieth, nineteen hundred and, a dog or dogs for which he had not procured a license as required by statute. The defendant shall be permitted to introduce evidence to show that he had not so harbored a dog or dogs during such time. If after such trial it shall be found that the said defendant has so harbored a dog or dogs and has not procured a license as required by statute, judgment shall be rendered against the defendant for the sum of ten dollars and costs of the action. A peace officer to whom shall be delivered such summons shall be paid the fees provided by law for the service of such summons and shall also be paid five cents per mile for each mile necessarily traveled in serving such summons. The justice of the peace or the magistrate shall be entitled to receive as a fee for each summons so issued the sum of fifty cents and for each witness sworn in said action the sum of twenty-five cents. The justice of the peace or the magistrate and the peace officer entitled to such fees shall make out and file with the board of supervisors of their county or other county auditing officers vouchers, in the form and manner prescribed by the department of farms and markets, showing the fees to which they are entitled under this section, and upon the allowance thereof the same shall be paid by the county treasurer. The justice of the

peace or the magistrate shall on or before the fifth day of each month remit to the county treasurer all sums of moneys received as judgments and costs in such actions during the preceding month. If a town or city clerk fail to make within the specified time a report containing the names of the owners of dogs who have neglected or refused to obtain licenses for such dogs and pay the license fee as herein provided within ten days after such neglect or refusal, he shall forfeit the sum of ten dollars to be collected by the county treasurer.

Source.—
Agricultural law,
§ 139a.

§ 119. **Damages for injuries caused by dogs.** The owner of a dog which shall attack, chase, worry, injure or kill domestic animals or fowls shall be liable for double the damages caused thereby to the owner of such domestic animals or fowls. Such damages shall equal the value of the animals or fowls killed, or if not killed, the amount of the damages caused by the injury of such animals or fowls.

Source.—
Agricultural law,
§ 139f.

§ 120.²⁸ **Amount of damages to be paid by the county; assignment of claim to county.** The owner of horses, cattle, sheep or swine attacked, chased, worried, injured or killed by a dog or dogs shall within ten days after discovery thereof and before such animal shall have been disposed of or buried give notice of claim to any assessor of the city or town where such animals were so attacked, chased, worried, injured or killed, that he will make a claim therefor and request that the damages be ascertained. Such notice of claim when filed shall set forth the facts, as claimed, including a description of such animals, the time and place where the claimant believed they were attacked, chased, worried, or injured or killed, and such other circumstances in connection therewith as may be within his knowledge. The assessor receiving such notice of claim shall immediately give notice thereof to the other assessors of such claim so made. The assessors, or a majority of them, shall, within three days, at a time and place to be designated by them, inquire into the matter, and shall examine the animal or animals alleged to have been injured or killed and, if necessary, examine witnesses in relation thereto. If after such inquiry they shall determine that such animals were so attacked, chased, worried, injured or killed by a dog or dogs, they shall make a report of such fact, the number and kind of such animals, and the amount of damages, if any, caused thereby. Such report shall also specify the amounts of their fees, which shall not exceed three dollars each for all services and five cents for each mile necessarily traveled in connection with one claim. The difference between the value of the animals before and such value after the occurrence of the acts on which the claim is based, shall be the measure of damages. Such report shall be filed immediately in the office of the county treasurer. Upon receipt of such assessors' report the county treasurer shall transmit a copy thereof to the claimant by mail. Within twenty days after the date of the mailing of such copy of such report the claimant or the county treasurer may file a petition with the clerk of the board of supervisors for a review by the board of supervisors of

²⁸ Section 120 is amended by L. 1922, ch. 361, post.

the determination of the assessors. The board of supervisors shall cause an investigation to be made of the facts upon which such determination was based. It may appoint a committee to conduct such investigation. The board of supervisors, or such committee if appointed, shall cause reasonable notice of the time and place at which the hearing on such investigation will be held to be given to the claimant and the county treasurer in such manner as it may direct. The said board of supervisors may approve, reject or modify the determination of the assessors. The board of supervisors shall render a decision on such review and cause a copy of such decision to be filed with the county treasurer and a copy thereof to be transmitted by mail to the claimant. If at the expiration of the period of twenty days after the mailing by the county treasurer to the claimant of such copy of such report of the assessors no petition for review has been filed in his office, or if a petition for review shall have been so filed, then upon the filing in his office of the decision of the board of supervisors, the county treasurer shall execute a certificate in triplicate containing the name of the owner of such animals and the amount of the damages which have been ascertained as herein provided. One of such certificates shall be filed in the office of the county treasurer, one transmitted to the department of farms and markets and one transmitted immediately by mail to the claimant. If additional or increased damages are claimed on account of a flock of sheep being attacked, chased or worried, accruing subsequent thereto and not apparent at the time of the first appraisal of damages to the flock, a supplemental notice of claim for such damages may be given to one of the assessors who had jurisdiction of the original claim, at any time within six months from the discovery of the original damages. Such supplemental notice of claim shall set forth the facts required to be specified in the original notice and also the facts upon which such additional or increased damages are based. The same proceedings shall be had thereon as in the case of an original claim. The person to whom a certificate allowing any damages shall be issued, or his assignee or legal representative, may present the same for payment and the amount thereof shall be paid to such person or his assignee or legal representatives, by such county treasurer, and the county treasurer shall also pay the assessors their fees as provided herein for passing upon such claim, out of any moneys available therefor, upon a proper receipt being signed by the person or assessor entitled to such payment and upon the presentation of an assignment to the county of the claim for damages against the owner or owners of the dog or dogs causing such damages. The form of such assignment shall be prescribed by the department of farms and markets. If the owner of such animals attacked, chased, worried, injured or killed shall not present to such county treasurer the certificate above mentioned within six months after the execution thereof, he shall be deemed to have waived compensation from the county for the damages incurred, and shall be liable to the assessors for their fees, and the amount thereof shall not

be paid by the county; except that such fees shall be paid by the county if such person fails to pay the same within one year from the time such certificate is filed with such county treasurer.

Source.—
Agricultural law,
§ 139g.

§ 121. **Report as to dog killed.** Any person who shall kill a dog under the provisions of this article shall forthwith report in writing such fact to the town or city clerk or to a justice of the peace, police justice or other magistrate having jurisdiction of the town or city in which such killing took place. Such report shall state the name and address of the person who killed the dog, a description of the dog killed, together with the time, place and circumstances of the killing and the disposition made of the carcass of the dog. Such report shall be open to public inspection at any reasonable time during the regular office hours of the office in which they are filed. A person killing a dog under the provisions of this article shall dispose of the carcass. Any person failing to make a report shall be subject to a penalty of five dollars to be recovered in an action brought therefor as provided in this article.

Source.—
Agricultural law,
§ 139h.

§ 122. **Disposition of fees, penalties and damages recovered.** On or before the fifth day of each month the town clerk of each town and the city clerk of each city, except a city within a county embracing a city of the first or second class which is subject to the provisions of this article, shall remit to the county treasurer all license fees and other funds from any source received by him under the provisions of this article, except the amounts provided to be paid to a police pension fund and the fees herein provided to be retained by him or by the city, together with a license stub representing each license which he has duly issued to owners of dogs. On or before the fifth day of each month the city clerk of each city within a county embracing a city of the first or second class subject to the provisions of this article shall remit to the state treasurer ten per centum of all license fees and other funds from any sources received by him under the provisions of this article, except the fees herein provided to be retained by him or by the city and at the same time shall transmit to the county treasurer forty-five per centum of such license fees and funds, less such retained fees, together with a license stub representing each license which he has duly issued to owners of dogs. The remaining forty-five per centum of such license fees and funds, less such retained fees, shall be paid into the treasury of such city, and so much thereof as such city shall provide shall be used to enforce the provisions of this article in such city. Each such town or city clerk shall also transmit to the department of farms and markets on or before the fifth day of each month another copy of each of such license stubs; provided, that in a city or village where under the laws existing on June eighth, nineteen hundred and seventeen, any portion of the license fees for licensing dogs was paid into the police pension fund, in such city or village, an amount per license fee equal to the amount which was payable from license fees to such pension fund under the laws

existing on June eighth, nineteen hundred and seventeen, shall be deducted from such license fees before remittance to said state or county treasurer and be paid into such police pension fund. The town or city clerk shall at the same time transmit to the county treasurer a statement showing the number of dogs of each sex licensed and the total amount of license fees received for each sex. Such statement shall be in the form prescribed by the department and shall contain such other information as it may require. The amount remitted shall not include the tag fees collected by such clerk as compensation for his services. Such tag fees shall be retained by the clerk unless his office be salaried, in which case such fees shall be paid to the town or city represented by such clerk. On the fifteenth day of each month, the county treasurer shall remit ten per centum of all moneys received by him prior thereto under the foregoing provisions of this section, except any of such moneys which were received from a city within a county embracing a city of the first or second class, to the state treasurer, with a statement of the sources from which they were derived, and at the same time shall transmit to the department of farms and markets copies of all statements received from town and city clerks prior thereto, except copies of the stubs from which licenses were issued. All penalties recovered under this article, all moneys recovered by the county in actions brought against owners of dogs on account of assigned claims for damages to domestic animals, and all moneys realized on the sale of the dogs, as provided in this article, shall be paid into the county treasury. The moneys paid into the state treasury under this article shall so far as necessary be appropriated by the legislature to be expended for the enforcement of the provisions of this article in so far as such enforcement shall devolve upon the department of farms and markets.

§ 123. **Recovery of penalties; actions for damages.** Penalties imposed by this article shall, except as otherwise provided in section one hundred and eighteen of this chapter, be recovered in actions brought by the county treasurer of the county in which such penalties are incurred, in the name of the county, in a court of competent jurisdiction. A county treasurer shall, when he deems it for the best interests of the county, cause an action to be brought in the name of the county against the proper parties upon a claim for damages assigned by the owner of domestic animals to such county as provided in this article. If any such action to recover such a penalty or any such action on such an assigned claim shall be brought in a justice's court, the town in which the office of the county treasurer is located shall be deemed the residence of the plaintiff for all the purposes of such action. It shall be the duty of the district attorney to prosecute all such actions to recover such penalties and all such actions upon such assigned claims for damages as shall be referred to him for prosecution by the county treasurer. A county treasurer may in his discretion discontinue, compromise or settle any such claim for a penalty or any such assigned claim for damages.

Source.—
Agricultural law,
§ 1201.

be paid by the county; except that such fees shall be paid by the county if such person fails to pay the same within one year from the time such certificate is filed with such county treasurer.

Source.—
Agricultural law,
§ 139g.

§ 121. **Report as to dog killed.** Any person who shall kill a dog under the provisions of this article shall forthwith report in writing such fact to the town or city clerk or to a justice of the peace, police justice or other magistrate having jurisdiction of the town or city in which such killing took place. Such report shall state the name and address of the person who killed the dog, a description of the dog killed, together with the time, place and circumstances of the killing and the disposition made of the carcass of the dog. Such report shall be open to public inspection at any reasonable time during the regular office hours of the office in which they are filed. A person killing a dog under the provisions of this article shall dispose of the carcass. Any person failing to make a report shall be subject to a penalty of five dollars to be recovered in an action brought therefor as provided in this article.

Source.—
Agricultural law,
§ 139h.

§ 122. **Disposition of fees, penalties and damages recovered.** On or before the fifth day of each month the town clerk of each town and the city clerk of each city, except a city within a county embracing a city of the first or second class which is subject to the provisions of this article, shall remit to the county treasurer all license fees and other funds from any source received by him under the provisions of this article, except the amounts provided to be paid to a police pension fund and the fees herein provided to be retained by him or by the city, together with a license stub representing each license which he has duly issued to owners of dogs. On or before the fifth day of each month the city clerk of each city within a county embracing a city of the first or second class subject to the provisions of this article shall remit to the state treasurer ten per centum of all license fees and other funds from any sources received by him under the provisions of this article, except the fees herein provided to be retained by him or by the city and at the same time shall transmit to the county treasurer forty-five per centum of such license fees and funds, less such retained fees, together with a license stub representing each license which he has duly issued to owners of dogs. The remaining forty-five per centum of such license fees and funds, less such retained fees, shall be paid into the treasury of such city, and so much thereof as such city shall provide shall be used to enforce the provisions of this article in such city. Each such town or city clerk shall also transmit to the department of farms and markets on or before the fifth day of each month another copy of each of such license stubs; provided, that in a city or village where under the laws existing on June eighth, nineteen hundred and seventeen, any portion of the license fees for licensing dogs was paid into the police pension fund, in such city or village, an amount per license fee equal to the amount which was payable from license fees to such pension fund under the laws

existing on June eighth, nineteen hundred and seventeen, shall be deducted from such license fees before remittance to said state or county treasurer and be paid into such police pension fund. The town or city clerk shall at the same time transmit to the county treasurer a statement showing the number of dogs of each sex licensed and the total amount of license fees received for each sex. Such statement shall be in the form prescribed by the department and shall contain such other information as it may require. The amount remitted shall not include the tag fees collected by such clerk as compensation for his services. Such tag fees shall be retained by the clerk unless his office be salaried, in which case such fees shall be paid to the town or city represented by such clerk. On the fifteenth day of each month, the county treasurer shall remit ten per centum of all moneys received by him prior thereto under the foregoing provisions of this section, except any of such moneys which were received from a city within a county embracing a city of the first or second class, to the state treasurer, with a statement of the sources from which they were derived, and at the same time shall transmit to the department of farms and markets copies of all statements received from town and city clerks prior thereto, except copies of the stubs from which licenses were issued. All penalties recovered under this article, all moneys recovered by the county in actions brought against owners of dogs on account of assigned claims for damages to domestic animals, and all moneys realized on the sale of the dogs, as provided in this article, shall be paid into the county treasury. The moneys paid into the state treasury under this article shall so far as necessary be appropriated by the legislature to be expended for the enforcement of the provisions of this article in so far as such enforcement shall devolve upon the department of farms and markets.

§ 123. **Recovery of penalties; actions for damages.** Penalties imposed by this article shall, except as otherwise provided in section one hundred and eighteen of this chapter, be recovered in actions brought by the county treasurer of the county in which such penalties are incurred, in the name of the county, in a court of competent jurisdiction. A county treasurer shall, when he deems it for the best interests of the county, cause an action to be brought in the name of the county against the proper parties upon a claim for damages assigned by the owner of domestic animals to such county as provided in this article. If any such action to recover such a penalty or any such action on such an assigned claim shall be brought in a justice's court, the town in which the office of the county treasurer is located shall be deemed the residence of the plaintiff for all the purposes of such action. It shall be the duty of the district attorney to prosecute all such actions to recover such penalties and all such actions upon such assigned claims for damages as shall be referred to him for prosecution by the county treasurer. A county treasurer may in his discretion discontinue, compromise or settle any such claim for a penalty or any such assigned claim for damages.

Source.—
Agricultural law,
§ 1391.

Source.—
Agricultural law,
§ 129.

§ 124. Apportionment to towns and cities of surplus moneys. In the month of September in each year, each county treasurer shall report to the board of supervisors of his county the total amount paid into the county treasury pursuant to this article during the preceding license year, exclusive of any money received by him for licenses for the current license year, the total amount expended for fees of assessors and peace officers and the amount paid out as compensation for damages to owners of domestic animals killed, injured or damaged by dogs, or otherwise disbursed by him. Seventy-five per centum of the surplus moneys in such fund, exclusive of any moneys received for licenses for the current license year, shall be apportioned by the board of supervisors at its annual session in each year, after the year nineteen hundred and twenty, among the several towns and cities of the county, on the basis of and in proportion to the contributions made by such towns and cities on account of the provisions of this article.

Source.—
Agricultural law
§ 129.

§ 125. Pounds and dog catchers in certain counties. The board of supervisors of any county having a population of over one hundred thousand, according to the last preceding federal or state census or enumeration, exclusive of the population of any city or cities in such county, may establish and maintain a pound or pounds therein, for the impounding of dogs under the provisions of this article. The board of supervisors of any such county may also create the position of dog catcher and appoint one or more persons thereto, to be removable at the pleasure of the board. Any such dog catcher shall have all the powers of a constable, policeman or police officer with respect to seizing, killing or impounding dogs under the provisions of this article, and the order provided for in section one hundred and seventeen may be directed and issued to any such dog catcher with the same force and effect as though issued to a constable, policeman or police officer. The board may provide either that the compensation of such dog catchers shall consist of the fees provided for a constable, policeman or police officer under this article or that they receive monthly or annual salaries. The expense of establishing and maintaining a pound or pounds shall be a general county charge, and provided for by tax, in the same manner as other county charges.

Source.—
Agricultural law,
§ 129m.

§ 126. Application of act; saving clause. 1. The provisions of this chapter relating to the licensing of dogs in a city shall not apply to the city of New York. The other provisions of this chapter shall not apply to dogs kept or harbored within the city of New York while they remain within the boundaries thereof.

2. A dog duly licensed under existing laws when this chapter takes effect is not required to be licensed under this chapter before the expiration of such license, and a dog wearing a tag issued upon such license shall be deemed duly tagged under this chapter.

3. The provisions of this article shall not apply to a dog owned by the nonresident passing through any village, town or city to which this article relates nor to dogs brought to any such village,

town or city and entered for exhibition at any dog show, if confined or in immediate charge.

4. The provisions of this article shall not apply to dogs actually confined to the premises of incorporated societies devoted to the care or hospital treatment of lost, strayed or homeless animals, or confined to the premises of public or private hospitals devoted to the treatment of sick or diseased animals.

§ 127.²⁹ **Article to be enforced by village authorities.** Within the limits of any incorporated village in counties adjoining a city of the first class having a population of one million or more, the provisions of this article shall be enforced by proper authorities of such village. Whenever in this article powers or duties are conferred or imposed on a town, board of supervisors or a town clerk, such powers and duties in respect to and within the limits of such incorporated village, shall be deemed to be conferred and imposed on such village and the officers of such village corresponding therein to a town clerk.

Source.—
Agricultural law,
§ 129a.

ARTICLE 8.

Sale and Analysis of Concentrated Commercial Feeding Stuffs.

Section 128. Term "concentrated commercial feeding stuffs" defined.

129. Term "roughages" defined.

130. Prohibiting sale of certain compounded feeds.

131. Statements to be attached to packages; contents; analysis.

132. Statements to be filed with commissioner; to be accompanied by sample and affidavit when requested.

133. License fee.

134. Commissioner to take samples for analysis.

135. Hearings provided for.

§ 128.³⁰ **Term "concentrated commercial feeding stuffs" defined.** The term "concentrated commercial feeding stuffs" as used in this article shall apply to no materials other than those known as concentrates, and shall include linseed meals, cottonseed meals, pea meals, bean meals, peanut meals, cocoanut meals, gluten meals, velvet bean meals, soya bean meals, dried yeast grains, dried vinegar grains, corn germ meal, feeding molasses, gluten feeds, cotton seed feeds, maize feeds, velvet bean feeds, peanut feeds, dried distillers' grains, dried brewer's grains, malt sprouts, except as hereinafter provided, hominy feeds, rice meals, corn and oat chops, corn feed meal, corn bran, corn and cob meal, wheat bran, wheat middlings, wheat feed, rye feed, rye middlings, buckwheat middlings and buckwheat feed, ground beef or fish scraps, meat meals, meat and bone meals mixed, dried blood, mixed feeds, compounded feeds, condimental stock and poultry feeds, proprietary or trade-marked stock and poultry feeds, and all other materials of a similar nature; but shall not include the materials defined in this article as roughages, the whole seeds nor

Source.—
Agricultural law,
§ 140.

²⁹ Section 127 is amended by L. 1922, ch. 369, post.

³⁰ Section 128 is amended by L. 1922, ch. 366, post.

pure whole grains ground together nor the unmixed meals, made directly from the entire grains of wheat, rye, barley, oats, corn, buckwheat and broom corn, nor malt sprouts, when sold as such by the maltster at retail, nor ground or cracked bone not mixed with any other substance, nor shall it include poultry feeds consisting of whole or whole and cracked grains mixed together, with or without grit, oyster shells or charcoal, when all the ingredients may be identified by the naked eye.

Source.—
Agricultural law,
§ 161.

§ 129. **Term "roughages" defined.** The term "roughages," as used in this article, shall include dried and ground hays and straws, dried and ground corn stalks or other parts of the corn plant not included in the grain, dried beet pulp, oat hulls, barley hulls, clipped oat by-product, sorghum plant by-products and flax plant by-products, cotton seed hulls, buckwheat hulls, cocoa shells, grain screenings or other materials of a similar character. This shall not include whole ground grains not mixed with any other substance.

Source.—
Agricultural law,
§ 162.

§ 130. **Prohibiting sale of certain compounded feeds.** No person shall sell, offer or expose for sale any concentrated commercial feeding stuffs containing peanut shells, peanut hulls, rice hulls, rice chaff, rice straw, humus, peat, sphagnum moss, coffee hulls, chaff, sawdust, sand, ground corn cobs except in corn and cob meal unmixed with other materials, or ground cocoanut shells, or any substances injurious to the health of animals or having no feeding value; nor shall any person sell, offer or expose for sale any poultry feeds containing in excess of five per centum in the aggregate of gravel, grit, oyster shells and charcoal, nor more than five per centum in the aggregate of any two or more of them; nor shall any person sell, offer or expose for sale any concentrated commercial feeding stuffs containing cockle seed, mustard seed or other noxious or poisonous weed seeds the viability of which has not been destroyed, but the commissioner shall have power to permit a uniform and reasonable tolerance in the amount of such seeds.

Source.—
Agricultural law,
§ 163.

§ 131. **Statements to be attached to packages; contents; analysis.** No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale or for distribution in this state, any concentrated commercial feeding stuffs used for feeding live stock unless such concentrated commercial feeding stuffs shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof and near the top, a tag, the form of which shall be prescribed by the commissioner and which shall bear a plainly printed statement which shall certify as follows:

1. The net weight of the contents of the package, except in the case of malt sprouts sold in packages containing uneven weights.

2. The name, brand or trademark.

3. The name and principal address of the manufacturer or person responsible for the placing of the commodity upon the market.

4.³¹ Its composition expressed in the following terms:

³¹ Subd. 4 is amended by L. 1922, ch. 366, post.

- a. The minimum per centum of crude protein.
- b. The minimum per centum of crude fat.
- c. The maximum per centum of crude fibre, provided that the per centum of crude fibre may be omitted if it does not exceed five per centum.
- d. If a compounded feed the name of each ingredient contained therein, but if any ingredient classified under concentrated commercial feeding stuffs be present in a smaller amount than five per centum of the whole, the minimum per centum or weight of such ingredient shall be given as part of the statement as herein provided.
- e. If artificially colored, the name of the material used for such purpose.
- f. In the case of meat products, the maximum per centum of phosphoric acid. If it contains more than ten per centum of phosphoric acid it shall be marked or designated "Meat and Bone Scrap" or "Meat and Bone Meal." If digester tankage contains more than ten per centum phosphoric acid, it shall be marked or designated "Digester Meat and Bone Tankage."
- g. In the case of molasses, the minimum per centum of sugar.
- h. In case of compounded feeds containing roughages the percentage of total roughages when the total fibre content exceeds ten per centum with an allowance of two per centum of fibre content for variation.

The statement to be placed upon the tag or sacks as herein provided shall be the same statement as that upon the application filed in the office of the commissioner by the applicant when applying for a license as required by section one hundred and sixty-four of this chapter.

Metal fasteners with sharp points shall not be used to attach a tag to the container.

Where the feeding stuff is in white or light colored paper or cloth sacks, or in new sacks, the tag may be omitted, but the statement herein provided for shall be plainly and conspicuously printed upon each sack. If any such concentrated commercial feeding stuffs be sold, offered or exposed for sale in bulk, such printed statement shall accompany every car or lot. Any such feeding stuffs purchased in bulk and thereafter placed in sacks for the purpose of sale shall have tags attached to each sack giving the information as provided herein before being sold, offered or exposed for sale. Whenever any feeding stuffs are sold at retail in bulk or in sacks or other containers belonging to the purchaser, the seller, upon request of the purchaser, shall furnish the said purchaser the information contained in the certified statement provided herein. Whenever any dealer shall mix a concentrated commercial feeding stuff to a customer's order, he shall, upon request, give to the customer at the time of delivery of the feeding stuff a printed or written statement of all of the materials used and the weight of each. That portion of the statement required by this section relating to the quality and ingredients of feedings stuffs shall be deemed a guaranty; provided,

however, that a licensee may change any ingredient in a licensed feeding stuff under the license issued by filing with the commissioner a duly written notice or statement of such change, provided that such change does not change the percentage of protein, fat or fibre guaranteed under such license, and that the statement on the sacks or tags shall be changed accordingly.

Source.—
Agricultural law,
§ 164.

§ 132. **Statements to be filed with commissioner; to be accompanied by sample and affidavit when requested.** Before any manufacturer, firm, association, corporation or person shall sell, offer or expose for sale in this state any concentrated commercial feeding stuffs, he or they shall, for each and every brand of concentrated commercial feeding stuffs, file annually, prior to the sale, offer or exposure for sale, with the commissioner a certified copy of the statement, with the exception of the net weight of the contents of the package, specified in section one hundred and thirty-one, said certified copy to be accompanied, when the said commissioner shall so request, by a sealed glass jar or bottle containing at least one pound of the feeding stuff to be sold or offered for sale, said sample to be accompanied by an affidavit that said sample corresponds to the feeding stuff which it represents, in the per centum of crude protein, crude fat, crude fibre, and in case of meat products phosphoric acid, name of each ingredient contained therein, if a compound feed, the name of any artificial coloring materials used and the percentage of total roughages when the total fibre content exceeds ten per centum.

Source.—
Agricultural law,
§ 166.

§ 133. **License fee.** Every manufacturer, importer, agent or seller of any concentrated commercial feeding stuffs shall pay annually prior to the sale, offer or exposure for sale, to the treasurer of the state of New York a license fee of twenty-five dollars for each and every brand to be sold, offered or exposed for sale. Whenever a manufacturer, importer, agent or seller of any concentrated commercial feeding stuffs desires at any time to sell such material and has not complied with the requirements of the statute he shall before selling, offering or exposing the same for sale, comply with the requirements as herein provided. Said treasurer shall in each case at once certify to the commissioner the payment of such license fee. Each manufacturer, importer or person who has complied with the provisions of this article shall be entitled to receive a certificate from the commissioner setting forth said facts. Such certificate shall expire on the thirty-first day of December of the calendar year for which it was issued, but no such certificate shall be issued for the sale of a brand of concentrated commercial feeding stuffs under a brand or trade name which is misleading or deceptive or which tends to mislead or deceive as to the constituents or material of which it is composed. Any such certificate so issued may be cancelled by the commissioner when it is shown that any statement upon which it was issued is false or misleading or if the manufacturer of the feeding stuffs which are manufactured, sold, offered or exposed for sale by the holder of such certificate shall refuse to allow access to the plant where the same is manufactured for the pur-

pose of any inspection authorized by the provisions of this chapter, or if the manufacturer shall refuse to permit an examination of the plant where the particular brand of feeding stuffs so licensed is manufactured or the feeding stuffs and feeding stuff materials therein; provided, however, that a retailer having feeding stuffs in his possession for sale which he purchased during the time when the license was in force shall not be prohibited from selling the remainder of such goods on hand by virtue of the revocation of the license or by the fact that the year for which the license was issued has expired. Whenever a manufacturer, firm, association, corporation or person shall have filed the statement required by the last section and paid the license fee as prescribed in this section, no agent, seller or retailer of such brand of feeding stuffs shall be required to file such statement or pay such fee upon said brand during the year for which licensed, nor upon such goods so licensed remaining unsold in subsequent years which were purchased during the year for which it was licensed. For the purpose of this article, concentrated commercial feeding stuffs shall be considered as distinct and separate brands when differing either in guaranteed analysis, ingredients, name, brand or trade-mark.

§ 134. **Commissioner to take samples for analysis.** The commissioner shall at least once in each year analyze or cause to be analyzed at least one sample to be taken in the manner hereinafter prescribed, of the different concentrated commercial feeding stuffs sold or offered for sale under the provisions of this article. The said commissioner or his duly authorized representative in taking samples shall take them in duplicate in the presence of at least one witness, and in the presence of such witness shall seal such samples and shall at the time of taking tender, and if accepted, deliver one of such samples to the person apparently in charge of such feeding stuffs; the other sample the commissioner shall cause to be analyzed. The result of the analysis of the sample or samples so procured, together with such additional information as circumstances advise, shall be published in reports or bulletins from time to time.

Source.—
Agricultural law,
§ 166.

§ 135. **Hearings provided for.** It shall be the duty of the commissioner before publishing any definitions, rules or regulations covering the operation of this article, to provide for a public hearing on the subject matter thereof, and a written notice of such hearing shall be mailed at least ten days in advance of the date of the hearing to all manufacturers of, and dealers in commercial feeding stuffs who shall have filed with the commissioner a request for such notice.

Source.—
Agricultural law,
§ 167.

ARTICLE 9

Inspection and Sale of Seeds

- Section 136. Inspection and sale of seeds.
137. Label requirements of agricultural seeds.
138. Label requirements of mixtures.
139. Label requirements of special mixtures.

Section 140. Exemptions.

141. Samples; publication of results of tests.

142. Provision for seed tests.

Source.—
Agricultural law,
§ 840.

§ 136. **Inspection and sale of seeds.** Within the meaning of this article "agricultural seeds" are defined as the seeds of Canadian blue grass, Kentucky blue grass, orchard grass, red top, timothy, brome grass, fescues, millets, tall meadow oat grass, Italian rye grass, kaffir corn, perennial rye grass, sorghum, sudan grass and other grasses, alfalfa, alsike clover, crimson clover, red clover, white clover, sweet clover, vetches, rape, flax, buckwheat, barley, corn, oats, rye, wheat and other cereals which are sold, offered or exposed for sale, within this state, for seeding purposes within this state.

Source.—
Agricultural law,
§ 841.

§ 137. **Label requirements of agricultural seeds.** Every lot of agricultural seeds, as defined in section one hundred and thirty-six of this article except as herein otherwise provided, when in bulk, packages or other containers of ten pounds or more, shall have affixed thereto, in a conspicuous place, on the exterior of the container of such agricultural seeds, a plainly written or printed statement, tag or label, in the English language, stating:

1. The commonly accepted name of such agricultural seeds.
2. The approximate percentage by weight of purity; meaning, the freedom of such agricultural seeds from inert matter and from other seeds distinguished by their appearance.
3. The approximate total percentage by weight of weed seeds; the term "weed seeds" as used herein, being defined as the noxious weed seeds listed in the next subdivision and all seeds not listed in the next section as agricultural seeds.
4. The name of each kind of the seeds of noxious weeds as herein defined which are present, singly or collectively: (1) in excess of one seed in each five grams of timothy, red top, tall meadow oat grass, orchard grass, crested dogstail, Canada blue grass, Kentucky blue grass, fescues, brome grasses, perennial and Italian rye grass, western rye grass, crimson clover, red clover, white clover, alsike clover, sweet clover, alfalfa and all other grasses and clovers not otherwise classified; (2) one in twenty-five grams of millets, rape, flax and other seeds not specified in subdivisions one or three of this section; (3) one in one hundred grams of vetches. For the purpose of this act the following seeds shall be considered as seeds of noxious weeds: the seeds of quack grass (*Agropyron repens*), wild mustard (*Brassica arvensis*) and other wild *Brassica* species, Canada thistle (*Cirsium arvense*), and dodder (*Cuscuta* Spp) are hereby defined as noxious weeds.
5. The approximate percentage of germination of such agricultural seed together with the month and year said seed was tested, provided, that this statement shall not be a basis for prosecution under this article, and provided further that if the director of the New York agricultural experiment station shall test these samples, or cause them to be tested, and shall publish the results of such germination tests as herein provided, such results shall

be published together with the month and year such tests were made by the director or his experts together with the date of test shown on the label.

6. The full name and address of the vendor of such agricultural seeds.

§ 138. **Label requirements of mixtures.** Mixtures of alsike clover and timothy, alsike and white clover, red top and timothy, alsike and red clover, when sold, offered or exposed for sale as mixtures and in lots of ten pounds or more shall have affixed thereto, in a conspicuous place on the exterior of the container of such mixture of seeds, a plainly written or printed statement, tag or label, in the English language, stating:

Source.—
Agricultural law,
§ 342.

1. That such seed is a mixture.

2. The name and approximate percentage by weight of each kind of agricultural seed present in such mixture in excess of five per centum by weight of the total mixture.

3. The approximate percentage by weight of weed seeds as defined in subdivision three of the last preceding section.

4. The name of each kind of the seeds of the noxious weeds listed in subdivision four of the last preceding section which are present singly or collectively in excess of one seed in fifteen grams of such mixture.

5. The approximate percentage of germination of each kind of agricultural seed present in such mixture in excess of five per centum by weight, together with the month and year said seed was tested; provided, however, that this statement shall not be a basis for prosecution under this article, and provided further that if the director of the New York agricultural experiment station shall test these samples, or cause them to be tested and shall publish the results of such germination tests as herein provided, such results shall be published together with the month and year such tests were made by the director or his experts together with the date shown on the label.

6. Full name and address of the vendor of such mixture.

§ 139. **Label requirements of special mixtures.** Special mixtures of agricultural seeds except as specified in section one hundred and thirty-eight of this article, when sold, offered or exposed for sale as mixtures, in bulk, packages or other containers of eight ounces or more shall have affixed thereto in a conspicuous place on the exterior of the container of such mixture, a plainly written statement or printed tag or label in the English language, stating:

Source.—
Agricultural law,
§ 342.

1. That such seed is a mixture.

2. The name of each kind of agricultural seed which is present in the proportion of five per centum or more of the total mixture.

3. The approximate total percentage by weight of weed seeds as defined in this article.

4. The approximate percentage by weight of inert matter.

5. The name of each kind of the seeds of noxious weeds listed in this article, which are present singly or collectively in excess of one seed in each fifteen grams of such mixture.

6. The full name and address of the vendor of such mixture.

Source.—
Agricultural law,
§ 244.

§ 140. **Exemptions.** Agricultural seeds or mixtures of same shall be exempt from the provisions of this article:

1. When exposed for sale or sold for food or feeding purposes only.

2. When sold to be recleaned before being sold or exposed for sale for feeding purposes.

3. When held for the purpose of recleaning.

4. When such seeds consist of buckwheat, barley, corn, oats, rye, wheat or other cereal sold by the grower thereof on his own premises and delivered to the vendee or his agent or representative personally on such premises.

Source.—
Agricultural law,
§ 245.

§ 141. **Samples; publication of results of tests.** The commissioner or his duly authorized representatives shall take samples of seeds in duplicate in the presence of at least one witness and in the presence of such witness shall seal such samples and shall at the time of taking tender, and if accepted, deliver to the person apparently in charge one of such samples; the other sample the commissioner shall cause to be analyzed, examined or tested. The director of the New York agricultural experiment station shall analyze, examine or test, or cause to be analyzed, examined or tested such samples of seeds taken under the provisions of this article as shall be submitted to him for that purpose by the commissioner, and shall report the results of such analysis, examination or test to the commissioner, and for this purpose the New York agricultural experiment station may establish and maintain a seed laboratory, with the necessary equipment, and may employ experts and incur such expense as may be necessary to comply with the requirements of this article. The results of the analysis, examination or test of any sample or samples so procured, together with such additional information as circumstances advise, shall be published from time to time in reports or bulletins. The said commissioner upon notice to the seed trade of this state, through the agricultural bulletins of the department or otherwise, shall be empowered to adopt such reasonable rules and regulations as may be deemed necessary to secure the efficient enforcement of this article.

Source.—
Agricultural law,
§ 246.

§ 142. **Provisions for seed tests.** Any citizen of this state shall have the privilege of submitting to the New York agricultural experiment station samples of agricultural seeds for test and analysis, subject to such rules and regulations as may be adopted by the director and board of control of said station.

ARTICLE 10

Sale and Analysis of Commercial Fertilizers

Section 143. Statements to be attached to packages.

144. Violations.

145. Statement filed with commissioner; license fees.

146. Presence of inert nitrogeneous matter to be stated.

147. Commissioner to take samples for analysis; analysis to be made by director of experiment station.

§ 143.²² **Statements to be attached to packages.** No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale in this state any commercial fertilizer or any material to be used as fertilizer, except animal manures which have not been artificially treated or manipulated, unless such commercial fertilizer or material to be used as a fertilizer shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof, a plainly printed statement which shall certify as follows:

Source.—
Agricultural law,
§ 220.

1. The net weight of the contents of the package.
2. The name, brand or trade mark under which it is to be sold.
3. The name and principal address of the manufacturer or person responsible for the placing of the commodity upon the market.

4. The minimum per centum of each of the following constituents which may be contained therein:

- (a) Nitrogen.
- (b) Available phosphoric acid, except that in cases of undissolved bone, basic slag phosphate, wood ashes, untreated phosphate rock, garbage tankage and pulverized natural manures, the minimum per centum of total phosphoric acid may be substituted therefor.

(c) Potash soluble in distilled water.

(d) In the case of ground lime rock, marls, mussel shells, and other calcium and magnesium carbonates used for agricultural purposes the minimum per centum of calcium oxide and magnesium oxide. If any commercial fertilizer or material to be used as a fertilizer, be sold, offered or exposed for sale in bulk such printed statement shall accompany every lot and parcel so sold, offered or exposed for sale. That portion of the statement required by this section, relating to the quality of commercial fertilizer or material to be used as a fertilizer, shall be known and recognized as the guaranteed analysis.

§ 144. **Violations.** It shall be a violation of the provisions of this article if the statement required by the last preceding section shall be false in regard to the net weight of the contents of the package sold, offered or exposed for sale, or in the name, brand or trade mark under which the fertilizer is sold, or in the name and address of the manufacturer or person responsible for placing the commodity upon the markets. It shall also be a violation of the provisions of this article if any commercial fertilizer or material to be used as a fertilizer shall contain a smaller percentage of nitrogen, phosphoric acid, potash, calcium oxide or magnesium oxide than is certified in said statement to be contained therein, when such deficiency shall be greater than ten per centum of any one of such constituents and when such deficiency amounts to more than four-tenths of a pound of nitrogen, or one pound of phosphoric acid or potash, or three pounds of combined calcium and magnesium oxides, in one hundred pounds of fertilizer, or material to be used as a fertilizer.

Source.—
Agricultural law,
§ 221.

²²Section 143 is amended by L. 1922, ch. 386, post.

Source.—
Agricultural law,
§ 222.

§ 145. **Statement filed with commissioner; license fees.** Before any manufacture, firm, association, corporation or person shall sell, offer or expose for sale, in this state any commercial fertilizer or material to be used as a fertilizer, he or they shall, for each and every brand of commercial fertilizer or materials to be used as a fertilizer, file annually, prior to the sale, offer or exposure for sale with the commissioner a certified copy of the statement with the exception of the net weight of the package specified in section one hundred and forty-three of this article. Every manufacturer, firm, association, corporation or seller of any commercial fertilizer or material to be used as a fertilizer shall pay annually prior to the sale, offer or exposure for sale, to the treasurer of the state of New York a license fee of twenty dollars for each and every brand to be sold, offered or exposed for sale. Whenever a manufacturer, firm, association, corporation or seller of any commercial fertilizer or material to be used as a fertilizer, desires at any time to sell such commercial fertilizer or such material and has not complied with the requirements of the statute, he or they shall before selling, offering or exposing the same for sale, comply with the requirements as herein provided. Said treasurer shall in each case at once certify to the commissioner the payment of such license fee. Each manufacturer, firm, association, corporation or seller who has complied with the provisions of this article shall be entitled to receive a certificate from the commissioner setting forth said facts. Such certificate shall expire on the thirty-first day of December of the calendar year for which it was issued, but no such certificate shall be issued for the sale of a brand of commercial fertilizer or material to be used as a fertilizer under a brand or trade name, or with any information or statement accompanying same, which is misleading or deceptive or tends to mislead or deceive as to its quality or the constituents or materials of which it is composed. Any such certificate so issued may be cancelled by the commissioner when it is shown that any statement upon which it was issued is false or misleading. Whenever a manufacturer, firm, association, corporation or person shall have filed the statement and paid the license fee as prescribed in this section, no agent, seller or retailer of such brand shall be required to file such statement or pay such fee upon said brand during the year for which licensed, nor upon such goods so licensed remaining unsold in subsequent years which were purchased during the year for which it was licensed. For the purposes of this article, commercial fertilizers or materials to be used as a fertilizer, shall be considered as distinct and separate brands when differing either in guaranteed analysis, name, brand or trade mark or in any other method of marking.

Source.—
Agricultural law,
§ 222.

§ 146. **Presence of inert nitrogenous matter to be stated.** No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale in this state leather or its products or other inert nitrogenous material in any form, as a commercial fertilizer or material to be used as a fertilizer or as an ingre-

dient of any fertilizer, unless an explicit statement of the facts shall be affixed to every package in a conspicuous place on the outside thereof and shall accompany every parcel or lot which may be sold, offered or exposed for sale in bulk.

§ 147. **Commissioner to take samples for analysis; analysis to be made by director of experiment station.** The commissioner shall at least once in each year transmit to the New York agricultural experiment station for analysis at least one sample, to be taken in the manner hereinafter prescribed, of the different brands of commercial fertilizers and materials to be used as fertilizers which are or may be sold, offered or exposed for sale under the provisions of this article. The said commissioner or his duly authorized representatives in taking samples shall take them in triplicate in the presence of at least one witness and in the presence of such witness shall seal such samples and shall at the time of taking tender, and if accepted, deliver to the person apparently in charge one of such samples, one of the other samples the commissioner shall cause to be analyzed. When samples are taken from fertilizers in bags, a tube shall be used and it shall be inserted at one end of the bag and shall pass substantially the entire length of the bag, so as to take a core of the material being sampled from substantially the entire length of the bag. Samples thus taken from individual bags shall be thoroughly mixed and the official samples be taken from the mixture so drawn. Samples of fertilizer taken as herein provided shall be taken from at least five per centum of the separate original packages in the lot for the mixture from which the official samples shall be taken. No action shall be maintained for a violation of the provisions of this article based upon an analysis of samples taken otherwise than as herein provided or taken from less than five separate original packages. The director of said experiment station shall continue to analyze or cause to be analyzed such samples of commercial fertilizers and materials to be used as fertilizers taken under the provisions of this article as shall be submitted to him for that purpose by the commissioner and shall report such analysis to the commissioner and for this purpose the New York agricultural experiment station may continue to employ chemists and incur such expenses as may be necessary to comply with the requirements of this article. The result of the analysis of the sample or samples so procured shall be published in reports or bulletins from time to time. Such reports or bulletins shall contain a statement in relation to ground lime rock, marls, mussel shells and other calcium and magnesium carbonates used for agricultural purposes as follows:

1. The per centum of the total material that will pass through a sieve having round openings one-half millimeter in diameter.
2. The per centum of the total material that will pass through a sieve having round openings one millimeter in diameter.
3. The percentum of the total material that will not pass through a sieve having round openings two millimeters in

Source.—
Agricul-
tural law,
§ 224.

diameter. Such additional information as circumstances advise shall also be published in such reports or bulletins from time to time.

ARTICLE 11

Prevention of Fraud in Sale of Insecticides and Fungicides.

Section 148. Definitions.

149. Labeling of packages.

150. Composition of paris green or analogous products.

151. Paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof to be analyzed.

Source.—
Agricultural law,
§ 144.

§ 148. **Definitions.** The term "insecticide" as used in this article shall include all substances or mixtures of substances intended to be used for destroying, repelling or mitigating any and all insects which may infect vegetation. The term "fungicide" as used in this article shall include any substance or mixture of substances intended to be used for destroying, repelling or mitigating any or all fungi or fungus diseases affecting any form of vegetation or vegetable products, providing that nothing herein shall be construed as contravening the provisions of the national pure food and drug law.

Source.—
Agricultural law,
§ 149.

§ 149. **Labeling of packages.** No person, firm, association or corporation shall hereafter sell, offer or expose for sale in this state any insecticide or fungicide unless the same is labeled or branded with the name and address of the manufacturer thereof and a statement which shall set forth so near as may be the percentages and chemical compositions of all essential substances or ingredients of said insecticides or fungicides or combinations of the same contained in said packages.

Source.—
Agricultural law,
§ 150.

§ 150. **Composition of paris green or analogous products.** Paris green, or any product analogous to it, when sold, offered or exposed for sale, as such, in this state, shall contain at least fifty per centum of arsenious oxide.

Source.—
Agricultural law,
§ 151.

§ 151. **Paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof to be analyzed.** The commissioner shall cause to have taken samples of the different brands of paris green, arsenate of lead, sulphur, lime sulphides, miscible combinations of mineral and vegetable oils, sulphate of copper, Bordeaux mixture, or any insecticide or fungicide or essential ingredient thereof, and submit the same to the director of the New York state agricultural experiment station, who shall analyze or cause to be analyzed such samples so delivered to him, and shall report the result of the analysis forthwith to the commissioner.

ARTICLE 12**Adulteration and Sale of Turpentine and Linseed Oil**

Section 152. Adulteration and sale of turpentine; notification of purchaser.

153. Adulteration and sale of raw linseed oil.

154. Adulteration and sale of boiled linseed oil.

155. Notice to be posted.

156. Application of article.

§ 152. **Adulteration and sale of turpentine; notification of purchaser.** No person shall manufacture, mix for sale, sell or offer for sale under the name of turpentine, spirits of turpentine, or wood turpentine or any compounding of the word turpentine, or under any name or device illustrating or suggesting turpentine or spirits of turpentine, any article which is not wholly distilled or derived from resin, crude turpentine gum, or scrapings from pine trees, and unmixed and unadulterated with oil, benzine or any other substance of any kind whatever, unless the package containing the same shall be stenciled or marked, with legible black letters in the English language not less than two inches high and one inch in width, "adulterated spirits of turpentine." Nor shall any person, firm or corporation sell or deliver such adulterated spirits of turpentine without informing the purchaser at the time of sale that the article is not pure spirits of turpentine, and the invoice shall accordingly read, "adulterated spirits of turpentine." Every container in which such mixed or adulterated spirits of turpentine is contained shall, in addition to the labeling before mentioned, be marked or stenciled in legible black letters in the English language, with the percentage of adulterant or adulterants which are contained in such mixture.

Source.—
Agricultural law,
§ 240,
1st paragraph.

§ 153. **Adulteration and sale of raw linseed oil.** No person shall manufacture or mix for sale, offer or expose for sale, or sell under the name of raw linseed oil, or any compounding of the name raw linseed oil, or under any name or device illustrating or suggesting raw linseed oil, any article which is not wholly the product of commercially pure linseed or flaxseed.

Source.—
Agricultural law,
§ 240, 2d
and 3d
paragraphs.

No person shall sell such adulterated raw linseed oil unless the package containing the same shall be plainly marked in legible black letters two inches high and one inch in width "adulterated linseed oil" or without informing the purchaser at the time of sale that the same is not pure linseed oil; and the invoice shall accordingly read "adulterated linseed oil."

§ 154. **Adulteration and sale of boiled linseed oil.** No person shall manufacture or mix for sale, offer or expose for sale, or sell under the name of boiled linseed oil any article unless the oil from which said article is made be wholly the product of commercially pure linseed or flaxseed and unless the same has been heated to at least two hundred and twenty-five degrees Fahrenheit. No person shall sell such adulterated boiled linseed oil unless the package containing the same shall be plainly marked in legible black letters two inches high and one inch in width

Source.—
Agricultural law,
§ 240, 2d
paragraph.

"Adulterated Boiled Linseed Oil," or without informing the purchaser at the time of sale that the same is not pure boiled linseed oil, and the invoice shall accordingly read "Adulterated Linseed Oil."

Source.—
Agricultural law,
§ 240, 4th
para-
graph, 1st
sentence.

§ 155. **Notice to be posted.** No person shall engage in the sale of adulterated turpentine, adulterated linseed oil or adulterated boiled linseed oil, in original packages or other than original packages, unless there are posted conspicuously in the room where such goods are sold, signs bearing the words "Adulterated Turpentine sold here," or "Adulterated Linseed Oil sold here," as the case may be, in legible letters in the English language at least two inches in length and one inch in width, said letters to be in black on a white background.

Source.—
Agricultural law,
§ 240, 4th
para-
graph, 2d
sentence.

§ 156. **Application of article.** The provisions of this article shall not be construed as prohibiting the manufacture or sale of any compounds or imitations mentioned in this article providing the requirements of this article are otherwise observed.

ARTICLE 13

Apples; Peaches; Evaporated Apples

Section 157. Grades or classes for apples.

158. Grades or classes for peaches.

159. Definition of standard evaporated apples.

160. Sale of other than standard evaporated apples.

Source.—
Agricultural law,
§ 262.

§ 157. **Grades or classes for apples.** The standard grades or classes for apples grown in this state when packed in closed packages shall be as follows:

First: "New York standard fancy grade" shall consist of apples of one variety, which are well grown specimens, hand-picked, properly packed, of good color for the variety, normal shape, free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than five per centum below the foregoing specifications on a combination of all defects or two per centum on any single defect.

Second: "New York standard A grade" shall consist of apples of one variety which are well grown specimens, hand-picked, properly packed, normal shape, free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than ten per centum below the foregoing specifications on a combination of all defects or five per centum on any single defect. No apples in this grade shall show less than thirty-three and one-third per centum of good color for the variety.

Third: "New York standard B grade" shall consist of hand-picked, properly packed apples of one variety, which are well matured and which are practically free from insect injury and

fungus disease; provided that apples having healed-over insect punctures, small scab or blotch infections, fruit spots, or other defects which, taken singly or collectively, do not materially deform or discolor the fruit or injure its keeping quality, shall be admitted to this grade; or apples of one variety which are not more than fifteen per centum below the foregoing specifications on a combination of all defects or five per centum on any single defect.

Fourth: "New York standard C grade" shall consist of apples of one variety which are well matured, hand-picked, properly packed, practically normal shape, and the apples constituting the face end shall be an average of the apples contained in the package. Such apples must comply with the markings of the barrel which shall include the variety, packer's name and address, the minimum size and the words "New York standard C grade."

Fifth: "Unclassified." Apples not conforming to the foregoing specifications of grade, or, if conforming, are not branded in accordance therewith, shall be classed as "unclassified" and so branded. The minimum size of the fruit in the package shall also be branded upon it as hereinafter specified and in addition to the other marks hereinafter required, and the apples constituting the face end shall be an average of the apples contained in the package.

The marks indicating grade as above prescribed may be accompanied by any other designation of grade or brand if that designation or brand is not inconsistent with or marked more conspicuously than the one of the said four marks which is used on the said package. Apples packed and branded in accordance with the United States law approved August third, nineteen hundred and twelve, shall be exempt from the provisions of this act.

The minimum size of the fruit in all classes or grades, including the ungraded, shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end. Minimum sizes shall be stated in variations of one-quarter of an inch, like two inches, two and one-quarter inches, two and one-half inches, two and three-quarter inches, three inches, three and one-quarter inches, and so on, in accordance with the facts.

Minimum sizes may be designated by figures instead of words. The word "minimum" may be designated by using the abbreviation "min."

A tolerance or variation of five per centum on size shall be allowed in all classes, but such five per centum shall not be in addition to the variations or tolerances for defects provided in grades "Fancy," "A" and "B."

(A) Every closed package containing apples grown in the state of New York which is sold, offered or exposed for sale, or packed for sale, or transported for sale by any person shall bear upon the outside of one end in plain letters and figures the name and address of the packer or the person by whose authority the apples

were packed and the package marked, the true name of the variety, the grade or class of the apples therein contained and the minimum size of the fruit in the packages. If the true name of the variety shall not be known to the packer or the person by whose authority the package is packed or branded, then such variety shall be designated as "unknown." Every package of apples which is repacked shall bear the name and address of the repacker or the name of the person by whose authority it is repacked in place of that of the original packer.

(B) The marks or brands as prescribed by this act shall be in block letters and figures of size of not less than thirty-six point Gothic.

(C) It shall be unlawful for any person within the state to sell, offer or expose for sale, or pack for sale, or transport for sale apples which are adulterated or misbranded within the meaning of this act. Closed packages containing apples that have been stenciled or branded as one of the standard grades or classes for apples grown in New York state shall be presumed to be apples grown within the state of New York.

(D) For the purposes of this act apples packed in a closed package shall be deemed to be misbranded:

First: If the package shall fail to bear the statements required by this act.

Second: If the package shall be falsely branded or shall bear any statement, design or device regarding such apples which is false or misleading, or if the package bears any statement, design, or device, indicating that the apples contained therein are a given New York "standard grade" and said apples when packed or repacked do not conform to the requirements of such grade.

(E) For the purposes of this act apples packed in closed packages shall be deemed to be adulterated if their quality or grade when packed or repacked does not conform to the marks upon the package.

(F) No person shall be prosecuted under the provisions of this act when he can establish satisfactory evidence to the effect that he was not a party to the packing and grading of such articles and had no knowledge that the same were misbranded or illegally packed, or when he can establish a guaranty, signed by the person from whom he received such articles, to the effect that the same are not adulterated or misbranded within the meaning of this act. Said guaranty, or said satisfactory evidence, to afford protection, shall contain the true name and address of the party or parties from whom said articles were received, or who made the sale or shipment of such articles to such person.

(G) Definitions. The word "person" as used herein shall be construed to include both the singular and plural, individuals, corporations, copartnerships, companies, societies and associations. The act, omission or failure of any officer, agent, servant or employee acting within the scope of his employment or office

shall be deemed the act, omission or failure of the principal. The words "closed package" shall mean a box, barrel or other package, the contents of which cannot be seen or inspected when such package is closed.

(H) No person shall on behalf of any other person pack any apples for sale or transportation contrary to the provisions of this act.

(I) This act shall not apply to apples actually transported in barrels to storage within this state until the same are sold, offered or exposed for sale, packed for sale, or transported for sale. Regulations and requirements herein in relation to transportation shall not apply to common carriers.

§ 158. **Grades or classes for peaches.** The standard grades or classes for peaches grown in this state when packed in closed packages, if marked or branded as hereinafter provided, shall be as follows:

Source.—
Agricultural law,
§ 262a.

First: New York standard "extra fancy" grade shall consist of peaches of one variety which are well grown specimens, hand-picked, properly packed, normal shape, free from dirt, diseases, insect and fungus injury, bruises and other defects, except such as are necessarily caused in the operation of packing and having a minimum size of not less than two and one-half inches, or peaches of one variety which are not more than ten per centum below the foregoing specifications on a combination of all defects, or five per centum on a single defect.

Second: New York standard "fancy" grade shall consist of peaches of one variety which are well grown specimens, hand-picked, properly packed, normal shape, practically free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing, and having a minimum size of not less than two inches, or peaches of one variety which are not more than ten per centum below the foregoing specifications on a combination of all defects or five per centum on a single defect.

Third: "Unclassified." Peaches not conforming to the above specifications of grade, or, if conforming, are not branded in accordance therewith may be classed as unclassified and so branded.

The marks indicating grade, as above prescribed, if placed upon the package, may be accompanied by any other designation of grade or brand, if that designation or brand is not inconsistent with or marked more conspicuously than the one of the said three grade marks which is used on said package, except that lithograph labels may be affixed to packages.

The minimum size of the fruit in all classes or grades for the purposes of this act shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end.

Minimum sizes shall be stated in variations of one-quarter of an inch, like two inches, two and one-quarter inches, two and one-half inches and so on in accordance with the facts.

Minimum sizes may be designated by figures instead of words.

The word "minimum" may be designated by using the abbreviation "min."

A tolerance or variation of ten per centum on size shall be allowed in all classes, but such ten per centum shall not be in addition to the variations or tolerances for defects provided in grades "extra fancy" and "fancy."

(A) Every package containing peaches grown in the state of New York which is sold, offered or exposed for sale, or packed for sale, or transported for sale by any person if branded with one of such grade markings shall also bear upon the outside, conspicuously marked in plain letters and figures, the name and address of the packer, or the person by whose authority the peaches were packed and the package marked, the true name of the variety, the grade or class of the peaches therein contained and the minimum size of the fruit in the package. If the true name of the variety shall not be known to the packer, or the person by whose authority the package is packed or branded then such variety shall be designated as "unknown." Every package of peaches so marked which is repacked shall bear the name and address of the repacker, or the person by whose authority it is repacked in place of that of the original packer.

(B) If marks or brands be used as prescribed by this act, the same shall be in block letters and figures of size of not less than eighteen point gothic.

(C) It shall be unlawful for any person within the state to sell, offer or expose for sale, or pack for sale, or transport for sale peaches which are adulterated or misbranded within the meaning of this act.

(D) For the purposes of this act peaches packed shall be deemed to be misbranded if the package shall be falsely branded, or shall bear any statement, design or device regarding such peaches which is false or misleading, or if the package bears any statement, design or device indicating that the peaches contained therein are a given New York "standard grade" and such peaches, when packed or repacked, do not conform to the requirements of such grade.

(E) For the purposes of this act peaches shall be deemed to be adulterated if their quality or grade, when packed or repacked, does not conform to the marks upon the package.

(F) Peaches sold by the pound to be delivered to canning factories and peaches packed in six-basket "Georgia carriers" shall not be deemed to come within the provisions of this act.

(G) No person shall be prosecuted under the provisions of this act when he can establish satisfactory evidence to the effect that he was not a party to the packing and grading of such articles and had no knowledge that the same were misbranded or illegally packed, or when he can establish a guarantee signed by the person from whom he received such articles, to the effect that the same are not adulterated or misbranded within the meaning of this act.

Said guarantee or said satisfactory evidence, to afford protection shall contain the true name and address of the party or parties from whom said articles were received or who made the sale or shipment of such articles to such person.

(H) Definitions. The word "person" as used herein shall be construed to include both the singular and the plural, individuals, corporations, copartnerships, companies, societies and associations.

The act, omission or failure of any officer, agent, servant or employee acting within the scope of his employment or office, shall be deemed the act, omission or failure of the principal.

(I) No person shall on behalf of any other person brand any peaches for sale or transportation contrary to the provisions of this act.

(J) This act shall not apply to peaches actually transported in baskets to storage in this state until the same are sold, offered or exposed for sale, packed for sale or transported for sale.

Regulations and requirements herein in relation to transportation shall not apply to common carriers.

§ 159. **Definition of standard evaporated apples.** Evaporated apples containing not more than twenty-four per centum of water or fluids as determined by drying for four hours at the temperature of boiling water shall be considered standard evaporated apples for the purposes of this article. Source.—Agricultural law, § 261.

§ 160. **Sale of other than standard evaporated apples.** No person shall buy for resale, sell, expose or offer for sale as and for evaporated apples any evaporated apples intended to be used for food, or for consumption by any person, other than standard evaporated apples. Source.—Agricultural law, § 260.

ARTICLE 14

Sale of Fruit-bearing Trees; Prevention of Disease in Trees and Plants; Insect Pests

Section 161. Definition of nursery stock; application of article.

162. Sale of fruit-bearing trees.

163. Damages accruing from sale of trees.

164. Agent to carry certificate of authority.

165. The prevention of disease in trees, shrubs, plants and vines and the extirpation of insect pests.

166. Report of existence of disease; destruction or treatment.

167. Appraisal and payment of value of property destroyed.

168. Action to be taken by the commissioner.

169. Examination of nurseries and nursery stock.

170. Transportation of nursery stock.

171. Caterpillars and black knot.

172. The governor to direct a temporary loan to prevent or control diseases or insect pests of plant or domestic animal life.

Source.—
Agricultural law,
§ 305,
last two
sentences.

§ 161. **Definition of nursery stock; application of article.** The words "nursery stock" wherever used in this article shall apply to and include all trees, shrubs, plants, buds, scions, cuttings and vines grown in a nursery and willows grown for baskets or cuttings or for nursery or other commercial purposes. The provisions of this article shall not apply to florists' greenhouse plants, flowers or cuttings commonly known as greenhouse stock, and no certificate shall be required for stock so shipped into the state that its sale and shipment become either interstate commerce traffic or commerce with foreign nations.

Source.—
Agricultural law,
§ 263.

§ 162. **Sale of fruit-bearing trees.** Every person, firm or corporation selling fruit-bearing trees shipped from any point in the state of New York must have attached to each car, box, bale or package a copy of a certificate of inspection issued by the department, valid to the first day of September next following. There shall also be attached to each bundle or package of such fruit-bearing trees a label specifying the name of variety of trees contained therein. In case such bundle or package shall contain trees of different kinds or varieties there must be attached to each tree therein a like label.

Source.—
Agricultural law,
§ 264.

§ 163. **Damages accruing from sale of trees.** Nothing contained in this chapter shall be construed to deprive a purchaser of any fruit-bearing tree of his remedy at law in a civil action to recover damages sustained by reason of such trees proving untrue to name as specified on the label. Such damages may be recovered in a civil action by the purchaser of such fruit-bearing trees or by his personal representative or assignee at any time prior to the third bearing year, provided the purchaser notifies the seller as soon as he has reason to believe that such trees are not true to name. In any action to recover damages suffered by the purchaser by reason of any fruit tree or trees not being of the name or variety under which they were tagged and sold, the seller shall have the burden of proof in establishing that any contract or any provision of any such contract exempting the seller from liability or limiting his liability was agreed to by the purchaser. In every case of a sale of fruit-bearing trees in lots of twenty-five or more, the seller must at once furnish the purchaser a copy of such contract upon the face of which shall be plainly printed the following: "In any action to recover damages suffered by the purchaser by reason of any fruit tree or trees not being of the name or variety under which they were tagged and sold, the seller shall have the burden of proof in establishing that any contract or any provision of any such contract exempting the seller from liability or limiting his liability was agreed to by the purchaser." The seller must also accompany the shipment of such trees with an itemized list of the same, which list shall also give the name of the county and state where the trees covered by it were grown, the age of the trees, and the name and address of the person for whom the trees were grown, if requested by letter or in writing on the contract by the purchaser at the time of purchase. Within five days after the

receipt by the purchaser of the trees and the list thereof the purchaser shall compare and notify the seller of any discrepancy between the list and the labels on such trees.

§ 164. **Agent to carry certificate of authority.** Any person, firm or corporation acting as agent for another in the sale of fruit-bearing trees in this state shall carry with him, at all times when engaged in selling trees, a certificate in writing signed by his principal and properly acknowledged, showing his authority to act as such agent and upon request shall exhibit the same to the purchaser and shall leave with the purchaser a copy of the contract bearing on its face the clause referred to in the last preceding section. Source.—Agricultural law, § 265.

§ 165. **The prevention of disease in trees, shrubs, plants and vines and the extirpation of insect pests.** No person shall knowingly or willfully keep any plum, peach, almond, apricot, nectarine or other trees affected with the contagious disease known as yellows. No person shall knowingly or willfully keep any peach tree affected with the disease known as little peach. Nor shall any person knowingly or willfully keep any trees, plants or vines affected or infected with the contagious disease or fungus known as black knot or with any other dangerously injurious fungous growth or any tree, shrub, plant or vine infested or infected with or by the San Jose scale or other insect pest or fungous disease dangerously injurious to or destructive of the trees, shrubs or other plants; every such tree, shrub, plant or vine shall be a public nuisance, and as such shall be abated and no damage shall be awarded for entering upon premises upon which there are trees, shrubs, plants or vines which may be infected with yellows, little peach or black knot or infested with San Jose scale or other insect pest, for the purpose of legally inspecting the same, nor shall any damage be awarded for the destruction by the commissioner or his duly authorized agents, or representatives of such trees, shrubs, plants or vines if necessary or proper to suppress such disease or pest, if done in accordance with the provisions of this article, except as otherwise herein provided. Source.—Agricultural law, § 304, 1st three sentences.

§ 166. **Report of existence of disease; destruction or treatment.** Every person, when he becomes aware of the existence of such disease, fungous growth or insect pest in any tree, shrub plant or vine, owned by him, shall forthwith report the same to the commissioner at Albany, New York, and the said commissioner shall take such action as the law provides. If in the judgment of said commissioner or the person or persons representing him, the trees, shrubs, plants, vines or their products, boxes, containers, or packing material so infected, infested or diseased should be destroyed or there is reasonable ground to believe that such trees, shrubs, plants, vines or their products, containers or packing material are or may be so infected, infested or diseased that they should be destroyed, then such destruction shall be carried on and completed under the supervision of the commissioner or the person or persons duly appointed by him and Source.—Agricultural law, § 304, 4th-9th sentences.

authorized so to do, without unnecessary delay, but the owner of the trees, shrubs, plants, vines or their products, boxes, containers or packing material shall be notified immediately upon its being determined that such trees, shrubs, plants, vines or their products, boxes, containers or packing material should be destroyed, by a notice in writing signed by said commissioner or the person or persons representing him, which said notice in writing shall be delivered in person to the owner of such trees, shrubs, plants, vines or their products, containers or packing material or left at the usual place of residence of such owner, or if such owner be not a resident of the town, by leaving such notice with the person in charge of the premises, trees, shrubs, plants, vines or their products, boxes, containers or packing material or in whose possession they may be. Such notice shall contain a brief statement of the facts found to exist whereby it is deemed necessary or proper to destroy such trees, shrubs, plants, vines or their products, boxes, containers or packing materials and shall call attention to the law under which it is proposed to destroy them, and the owner shall within ten days from the date upon which such notice shall have been received, or such shorter time as the commissioner may designate, remove and burn all such diseased or infested trees, shrubs, plants, vines or their products, boxes, containers or packing material. If, however, in the judgment of the commissioner, any trees, shrubs, plants, vines or their products, boxes, containers or packing material infected with any such disease or infested with dangerously injurious insects or fungous growth can be successfully treated with remedies, he may direct such treatment to be carried out by the owner under the direction of the commissioner's agent or agents. In case of objections to the findings of the inspector or agent of the commissioner, an appeal shall be made to the commissioner, whose decision shall be final. An appeal must be taken within three days from the service of said notice and shall act as a stay of proceedings until it is heard and decided. When the commissioner or the person or persons appointed by him shall determine when any tree or trees, shrubs, plants, vines or their products, boxes, containers or packing material must be treated or destroyed forthwith, he may employ all necessary assistants for that purpose, and such person or persons, agent or agents, employee or employees, may enter upon any or all premises in any city or town necessary for the purposes of such treatment, removal or destruction.

Source.—
Agricultural law,
§ 304,
10th-16th
sentences.

§ 167. Appraisal and payment of value of property destroyed. The commissioner shall ascertain the value of all boxes or containers destroyed and all trees, shrubs, plants, vines or their products destroyed on the ground that there was reasonable cause to believe they were or might be infected, infested or diseased as provided herein by having an agent of the department appraise the same. If the owner thereof is not satisfied with the value as fixed in such appraisal, then two arbitrators shall be appointed, one by the owner and one by the commis-

sioner or his duly authorized representative, and the value fixed by such arbitrators shall be final when duly approved by the commissioner. But if such arbitrators fail to agree, then each arbitrator shall make a report to the commissioner setting forth the values as determined by him and the said commissioner shall thereafter fix a value upon the articles so appraised. If the owner is not satisfied with the value so fixed, he may take an appeal therefrom to the court of claims, which court is hereby authorized to pass upon the questions involved and determine the amount due the said owner. The commissioner shall thereafter make to the comptroller of the state of New York a detailed statement in which he shall set forth the boxes and containers thus destroyed and the trees, shrubs, and plants destroyed on the ground of reasonable cause to believe that they were or might have been infected, infested or diseased and the value thereof determined as provided herein. The comptroller shall thereafter draw his warrant on the treasurer for the amount certified by the commissioner as the value thereof and the treasurer shall pay to the owner or owners of the said boxes, containers, trees, shrubs, plants, vines or their products so destroyed the value thereof from any money in the treasury specifically appropriated therefor. The provisions of this section shall apply to all boxes, containers, trees, shrubs, plants, vines or their products hereafter or heretofore destroyed, except as to such boxes, containers, trees, shrubs, plants, vines or their products as were brought into the state illegally, and such as are known to be infected or infested with such disease, fungous growth or pest.

§ 168. **Action to be taken by the commissioner.** When the commissioner knows or has reason to believe that any such disease, fungous growth or insect pest exists, or that there is good reason to believe that it exists, or danger is justly apprehended of its introduction into any town or city in the state, or that any dangerously injurious insect pest or fungous growth exists within this state, and has reason to believe that danger may be justly apprehended from its existence, he shall forthwith send some competent person and such agent or agents as he may deem necessary to assist in extirpating said pest or pests, disease or diseases, and the said commissioner is hereby authorized and empowered to take such steps and do whatever may be deemed necessary to so control or prevent the spread or extirpate such pest or pests, disease or diseases. The said commissioner is hereby empowered to issue such orders and notices as he may deem necessary or proper for the purposes herein relative to such diseased nursery stock or relative to any trees, shrubs, plants, vines or their products, boxes, containers or packing material concerning which he has reasonable cause to believe are or may be infected or infested with any such disease or pest.

§ 169. **Examination of nurseries and nursery stock.** The commissioner shall cause an examination to be made at least once each year, prior to September first, of each and every nursery or other place where trees, shrubs, plants or vines,

Source.—
Agricul-
tural law,
§ 306,
1st two
sentences.

Source.—
Agricul-
tural law,
§ 306,
4th-6th
sentences.

commonly known as nursery stock, are grown for sale, for the purpose of ascertaining whether the trees, shrubs, plants or vines therein kept or propagated for sale are infected with any such contagious disease or diseases or infested with such pest or pests. If after such examination it is found that the said trees, shrubs, plants or vines so examined are free in all respects from any such contagious or infectious disease or diseases, dangerously injurious pest or pests, the said commissioner or his duly authorized agent or other person designated to make such examination shall thereupon issue to the owner or proprietor of the said stock thus examined a certificate setting forth the fact that the stock so examined is apparently free from any and all such disease or diseases, pest or pests. No nurseryman, agent, dealer or broker, shall distribute or deliver within the state, trees, vines, shrubs, plants, buds or cuttings, commonly known as nursery stock, and which are subject to the attacks of insects and diseases above provided for, unless he has in his possession a copy of said certificate, dated within a year thereof, nor deface or destroy such certificate, or wrongfully be in possession of such certificate.

Source.—
Agricultural law,
§ 306, 7th,
9th-15th
sentences.

§ 170. **Transportation of nursery stock.** All nursery stock consigned for shipment or shipped by freight, express or other means of transportation shall be accompanied by a copy of said certificate attached to each car, box, bale, bundle or package, but no nursery stock shall be sold or shipped under the certificate issued as provided herein that is not raised in the nursery for or to which the said certificate was issued until such stock has been duly examined as provided herein and found to be apparently free from any dangerously injurious insect pest or disease. All custom house brokers bringing into or causing to be brought into this state any nursery stock shall file with the commissioner on or before October first each year the name of the person, firm, association or corporation engaged in or intending to engage in such business, together with the business address of such person, firm, association or corporation. All transportation companies, custom house brokers or other persons importing or bringing nursery stock into this state shall immediately, upon receiving such consignment, notify the commissioner of the fact that such consignment is in their possession or is en route to some point within the state and give the name of the consignor and consignee, and the points of shipment and of destination of such consignment, and the name of the transportation company bringing such stock and the route or routes over which it was brought and shall make such further report relative to such shipments as the commissioner may from time to time require. Any person bringing trees or other plants into this state or receiving such trees or plants from outside the state shall before unpacking the same within the state apply to and receive from the commissioner a permit so to do; the commissioner shall, upon being satisfied that said trees or plants so desired to be inspected are free from any dangerously injurious insect pest, disease or fungous growth, issue a certificate permitting such person to unpack

such trees or plants. No person shall knowingly or wilfully bring into this state or unpack within the state gypsy or browntail moth or other insect pests or caterpillar, larvae, pupae or eggs of the same except for scientific purposes and then only upon the written consent and approval of the commissioner. All trees, plants, shrubs, buds or cuttings, commonly called nursery stock, grown in any nursery in this state, in which San Jose scale has been found within two years of the date of the dissemination of said nursery stock or grown in said nursery within one-half mile of where said scale was found, must be fumigated with hydrocyanic acid gas, in such manner as may be directed by the commissioner of this state. Such fumigation must be done by the grower of such stock before planting, dissemination or reshipment, except such trees, shrubs, plants, buds or cuttings grown in this state as are planted by the grower or propagator for himself, or such as from its nature or state of growth would be exempt; in such cases the said commissioner shall declare such trees, shrubs, plants, buds or cuttings free from such treatment. Should any nursery stock purchased within one year be found infested with San Jose scale on the premises of any nurseryman, it shall not be considered such an infestation as to require the fumigation of other stock not so purchased.

§ 171. **Caterpillars and black knot.** The tent caterpillar, the forest tent caterpillar and the fungous known as black knot are hereby declared to be public nuisances. When owners of property within this state shall report to the commissioner that an outbreak of the pests known as tent caterpillar, forest tent caterpillar or the fungus known as black knot exists, or when said commissioner has knowledge that either of these pests or this disease is damaging trees or plants he shall cause an investigation to be made. If it is found, as a result of such investigation, that there is reasonable ground to believe that such caterpillars or fungus disease will spread and do damage to trees, plants or other vegetation, the commissioner may order the owners to destroy such caterpillars and such diseased trees and the owners shall comply with such order under the direction or surveillance of the commissioner or his duly authorized representative and no damage shall be awarded or paid to any owner of trees or plants necessarily destroyed by virtue of the work performed in carrying out the provisions of such order.

Source.—
Agricul-
tural law,
§ 304a.

§ 172. **The governor to direct a temporary loan to prevent or control diseases or insect pests of plant or domestic animal life.** Whenever it shall appear to the satisfaction of the governor of this state that any communicable, infectious, contagious or destructive disease or diseases or insect pest or pests affecting plant or domestic animal life exists, or that there is great danger of its being brought into this state, and that there is not sufficient money duly appropriated for the prevention, eradication, suppression or control of such disease or diseases or insect pest or pests, he shall direct the state comptroller to make on behalf of the state a temporary loan in the amount not to exceed fifty

Source.—
Agricul-
tural law,
§ 320.

thousand dollars to be used by the commissioner of agriculture in preventing, eradicating, suppressing or controlling such disease or diseases or insect pest or pests so found to exist or to be imminent. The comptroller shall thereupon borrow such sum for such purpose, and shall report the transaction, on January first of the year following, to the legislature, with a recommendation that an appropriation be made to repay the sum or sums so borrowed. The provisions of section thirty-five of the state finance law shall not apply to any indebtedness incurred by the comptroller on behalf of the state pursuant to this section.

ARTICLE 15.

Prevention of Disease Among Bees

Section 173. The prevention of disease among bees.

174. Assessors to report owners of bees; transportation of bees regulated.

175. Duties of the commissioner.

Source.—
Agricultural law,
§ 300.

§ 173.³³ **The prevention of disease among bees.** No person shall keep in his apiary any colony of bees affected with a contagious malady known as European or American foul brood; and every beekeeper when he becomes aware of the existence of either of such diseases among his bees, shall immediately notify the commissioner of the existence of such disease.

Source.—
Agricultural law,
§ 300a.

§ 174.³⁴ **Assessors to report owners of bees; transportation of bees regulated.** Assessors shall file with their annual assessment roll a list of the names and addresses of all owners of bees within their respective districts. No person shall remove or transport bees or colonies of bees that are suffering with the disease known as European or American foul brood from the place where kept to any point within the state of New York, provided, however, that this shall not prevent the removing of diseased colonies of bees from bees not so diseased to some point of segregation and safety. The removal of diseased bees from the colonies that are not so diseased to some other place for treatment shall only be done under a written permission from the commissioner to so remove for such purpose. No person or corporation shall remove bees which are under quarantine to another locality without obtaining permission in writing from the commissioner so to do. No person or transportation company shall receive any bees for transportation from a point within this state to any other point therein unless said bees are accompanied by a certificate signed by an authorized inspector of the department of farms and markets stating that such bees are in good healthy condition. Any transportation company receiving a shipment of bees from without the state unaccompanied by a certificate issued by a duly authorized inspector showing freedom from disease shall notify the commissioner of the receipt of such shipment of bees, the name of the consignor and consignee,

³³ Section 173 is amended by L. 1922, ch. 191, post.

³⁴ Section 174 is amended by L. 1922, ch. 191, post.

place of shipment and point of destination within this state. In case contagious disease is found within the shipment, such shipment shall be returned to the consignor or delivered to a duly authorized representative of the department of farms and markets of this state for treatment or destruction.

§ 175. **Duties of the commissioner.** The commissioner shall immediately upon receiving notice of the existence of European or American foul brood among the bees in any locality, send some competent person or persons to examine the apiary or apiaries reported to him as being affected, and all the other apiaries in the immediate locality of the apiary or apiaries so reported. If European or American foul brood is found to exist in them, the person or persons so sent by the commissioner shall give the owners or caretakers of the diseased apiary or apiaries full instructions how to treat said cases. The commissioner shall cause said apiary or apiaries to be visited from time to time as he may deem best and if, after proper treatment, the said bees shall not be cured of the disease known as European or American foul brood then he may cause the same to be destroyed in such manner as may be necessary to prevent the spread of the said disease. For the purpose of enforcing this article, the commissioner, his agents, employees, appointees or counsel, shall have access, ingress and egress to all places where bees or honey or appliances used in apiaries may be, which it is believed are in any way affected with the said disease of European or American foul brood or where it is believed any commodity is offered or exposed for sale in violation of the provisions of this article. No owner or caretaker of a diseased apiary, honey or appliances shall sell, barter or give away any bees, honey or appliances from said diseased apiary, which shall expose other bees to the danger of said diseases, nor refuse to allow the said commissioner, or the person or persons appointed by him to inspect said apiary, honey or appliances, and do such things as the said commissioner or the person or persons appointed by him shall deem necessary for the eradication of said diseases.

Source.—
Agricultural law,
§ 203.

ARTICLE 16

Weights and Measures

Section 176. Description of weights and measures.

177. The unit of length and surface.

178. Units of weight.

179. Units of capacity.

180. Duties of commissioner in relation to weights and measures.

181. Copies of standard weights and measures.

182. County sealer; duty of supervisors.

183. City sealer.

184. Sealing of approved weights and measures.

185. Sealing of false weights and measures.

186. Condemnation and seizure of false weights and measures.

Section 187. Keeping false weights and measures.

188. Using false weights and measures.*

189. False labels.

190. Number of pounds to the bushel.

191. Bottles or jars for milk and cream.

192. Definition of term "container."

193. Method of sale of certain commodities.

194. Net contents of containers to be indicated on the outside thereof.

195. Exceptions.

196. Guaranty furnished by wholesaler, jobber or manufacturer.

197. Construction of contracts.

Source.—
General
business
law,
§ 2.

§ 176. **Description of weights and measures.** The standard weights and measures that were furnished to this state by the government of the United States, in accordance with a joint resolution of congress, approved June fourteenth, eighteen hundred and thirty-six, and consisting of one standard yard measure and one set of standard weights, comprising one Troy pound, and nine avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five and fifty pounds respectively; one set of standard Troy ounce weights, divided decimally from ten ounces to the one ten-thousandth of an ounce; one set of standard liquid capacity measures, consisting of one wine gallon of two hundred and thirty-one cubic inches, one-half gallon, one quart, one pint and one-half pint measure; and one standard half bushel, containing one thousand and seventy-five cubic inches and twenty one-hundredths of a cubic inch, according to the inch hereby adopted as standard, and such new weights, measures, balances and other apparatus as may be received from the United States as standard weights, measures, balances and apparatus in addition thereto or in renewal thereof as well as such weights, measures, balances and apparatus as may be added by the state department of weights and measures and verified by the national bureau of standards shall be the standards of weights and measure throughout this state.

Source.—
General
business
law,
§ 3.

§ 177. **The unit of length and surface.** The units or standard measures of length and surface, from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, are the standards of length designated in this article. For measures of cloths and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths, and sixteenths. The rod, pole or perch, contains five and one-half yards; the mile, one thousand seven hundred and sixty yards. The chain for measuring land is twenty-two yards long and is divided into one hundred equal parts called links. The acre for land measure, shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten in breath; six hundred and forty acres being contained in a square mile.

* So in original. [Does not conform to section heading.]

§ 178. **Units of weights.** The units or standards of weight from which all other weights shall be derived and ascertained, shall be the standard weights designated in this article. The hundred-weight consists of one hundred avoirdupois pounds and twenty hundred weight are a ton. In all transactions relating to the sale or delivery of coal two thousand avoirdupois pounds in weight shall constitute a legal ton.

Source.—
General
business
law,
§ 4.

§ 179. **Units of capacity.** The units or standards of measure of capacity for liquids from which all other measures shall be derived and ascertained shall be the standards designated in this article. The barrel is equal to thirty-one and one-half gallons and two barrels are a hogshead. The parts of the liquid gallon shall be derived from the gallon by continual division by the number two, so as to make half gallons, quarts, pints, half pints and gills. The peck, half peck, quarter peck, quart, pint and half pint measures for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing that measure by two.

Source.—
General
business
law,
§ 5.

§ 180. **Duties of commissioner in relation to weights and measures.** The commissioner shall take charge of the standards adopted by this article as the standards of the state; cause them to be kept in a fireproof building belonging to the state, from which they shall not be removed, except for repairs or for certification, and take all other necessary precautions for their safe-keeping. He shall maintain the state standards in good order and shall submit them once in ten years to the national bureau of standards for certification. He shall correct the standards of the several cities and counties and, as often as once in five years, compare the same with those in his possession, and shall keep a record of the same, and where not otherwise provided by law he shall have a general supervision of the weights, measures and measuring and weighing devices of the state, and offered for sale, hire, award, or sold or in use in the state. He shall upon the written request of any citizen, firm, corporation or educational institution of the state, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state. He shall at least once annually test all weights and measures, and weighing and measuring devices used in checking the receipt or disbursement of supplies in every state institution and report in writing his findings to the executive officer of the institution concerned; and at the request of said officers the commissioner shall appoint in writing one or more employees, then in actual service, of each institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. He shall keep a complete record of the standards, balances and other apparatus belonging to the state and take receipt for the same from his successor in office. The commissioner shall inspect all standards used by the counties or cities at least once in two years and shall keep a record of the same. He shall at least once in two years visit the various cities and counties of the state in order to

Source.—
General
business
law,
§ 11.

inspect the work of the local sealers and in the performance of his duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any person, firm or corporation. He shall establish amounts of tolerance, or reasonable variations allowable for weights, measures and weighing and measuring devices, and shall issue instructions to the county and city sealers, and these shall be binding upon and govern said sealers in the discharge of their duties.

Source.—
General
business
law,
§ 12.

§ 181. **Copies of standard weights and measures.** The state shall have a complete set of copies of the original standards of weights and measures adopted by this article, which shall be used for adjusting county standards, and the original standards shall not be used except for the adjustment of this set of copies and for scientific purposes.

The commissioner shall see that the foregoing provisions of this section are complied with and procure such apparatus and fixtures, if the same have not already been procured, as are necessary in the comparison and adjustment of the county standards.

He shall cause all the city and county standards to be impressed with the emblem of the United States, the letters "N. Y.," and such other devices as he shall direct for the particular county.

Source.—
General
business
law,
§ 13.

§ 182. **County sealer; duty of supervisors.** There shall be a county sealer of weights and measures in each county, except where such county is wholly embraced within a city, who shall be appointed by the board of supervisors and hold office during the pleasure of such board. He shall be paid a salary determined by the board of supervisors and shall be provided by them with the necessary working equipment of standard weights and measures. He shall take charge of and safely keep the county standards, and at least once in every five years shall submit such standards to the commissioner, at the place where the standards of the state are kept, for calibration and certification. Where not otherwise provided by law, the county sealer shall have the power within his county to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement and the tools, appliances or accessories connected with any or all such instruments or measurements used or employed within the county by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, article for distribution or consumption offered or submitted by such person or persons for sale, for hire or award. He shall at least twice in each year and as much oftener as he may deem necessary see that the weights, measures and all apparatus used in the county are correct. He may for the purposes above mentioned, and in the general performance of his official duties, enter or go into or upon and without formal warrant, any stand, place, building or premises or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon or any dealer whatsoever, for the purposes of making the proper tests. Whenever the county sealer finds a violation of the

statutes relating to weights and measures he shall cause the violator to be prosecuted. The county sealer shall keep a complete record of the work done by him and shall make an annual report to his board of supervisors, and an annual report, duly sworn to, not later than the first of December to the commissioner. The county sealer of weights and measures shall forthwith on his appointment give a bond, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office and for the safety of the local standards and such appliances for verification as are committed to his charge and for the surrender thereof immediately to his successor in office or to the person appointed by the proper authority to receive them.

§ 183. **City sealer.** There shall be a city sealer of weights and measures, or an officer having similar duties, to be appointed by the mayor with the approval of the common council of each city, or in such other way as the city charter shall designate. He shall be paid a salary to be fixed and determined by the board or body authorized to determine salaries of city officials, and no fees shall be charged or received by him or by the city for the inspection or testing of weights, measures or weighing or measuring devices. He shall perform in his city the duties of and have like powers as a county sealer in a county. Source.—
General
business
law,
§ 14.

§ 184. **Sealing of approved weights and measures.** Whenever a city or county sealer inspects any weight or measure and finds that it corresponds or causes it to correspond with the standards in his possession he shall seal or mark the same with an appropriate device. Source.—
General
business
law,
§ 15.

No person shall remove any such seal or mark from any such weight or measure or obliterate or deface any such seal or mark.

§ 185. **Sealing of false weights and measures.** Whenever any city or county sealer inspects any weight or measure and finds that it does not correspond and does not cause it to correspond with the standards in his possession he shall seal or mark the same. Source.—
New.

No person shall use or attempt to use any weight or measure to which there has been affixed or upon which there has been placed any such last mentioned seal, mark or device, for the purpose of determining the weight or quantity of any commodity or article of merchandise, unless such seal, mark or device shall have been removed therefrom by a city or county sealer.

No person shall remove from any such weight or measure any seal or mark which has been affixed thereto, or placed thereon by a city or county sealer or obliterate or deface the same.

§ 186. **Condemnation and seizure of false weights and measures.** A city or county sealer may condemn and seize any weight or measure found by him to fail to conform to the standards in his possession and which is not caused by him to conform to such standards and cause the same to be destroyed or disposed of under such regulations as the commissioner of farms and markets may prescribe. Source.—
New.

Source.—
Penal
law,
§ 2412.

§ 187. **Keeping false weights and measures.** No person shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it or permit it to be used for determining the quantity of any commodity or article of merchandise.

Source.—
Penal
law,
§§ 2411,
2414a.

§ 188.³⁵ **Under false weights and measures.** No person with knowledge that the same is false, shall use a false weight, measure, or other apparatus, for determining the quantity of any commodity or article of merchandise or knowingly deliver less than the quantity he represents.

The possession or use by any person of any false weight, measure, or other apparatus, for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure, or other apparatus.

Source.—
Penal
law,
§ 435.

§ 189. **False labels.** No person shall, with intent to defraud, put upon an article of merchandise or upon a cask, bottle, stopper, vessel, case, cover, wrapper, package, band, ticket, label or other thing, containing or covering such an article, or with which such an article is intended to be sold, or is sold, any false description or false indication of or respecting the number, quantity, weight or measure of such article or any part thereof; or sell or offer or expose for sale an article which to his knowledge is falsely described or indicated in any of the manners or in any of the particulars above specified.

Source.—
General
business
law,
§ 2.

§ 190. **Number of pounds to the bushel.** Whenever any commodity specified in this section is sold by the bushel, and no special agreement is made by the parties as to the mode of measuring, the bushel shall consist of seventy pounds of lime or coarse salt; sixty pounds of wheat, peas, potatoes, clover-seed or beans; fifty-seven pounds of onions; fifty-six pounds of Indian corn, rye or fine salt; fifty-five pounds of flax-seed; fifty-four pounds of sweet potatoes; fifty pounds of corn meal, rye meal or carrots; forty-eight pounds of barley or buckwheat; forty-five pounds of herds-grass, timothy seed or rough rice; forty-four pounds of Sea island cotton seed; thirty-three pounds of dried peaches; thirty-two pounds of oats; thirty pounds of upland cotton seed; twenty-five pounds of dried apples; twenty pounds of bran or shorts. For a fractional part of the bushel a like fractional part of the above weights shall be required.

Source.—
General
business
law,
§§ 5a, 5b.

§ 191. **Bottles or jars for milk and cream.** Bottles used for the sale of milk and cream shall be of the capacity of half gallon, three pints, one quart, one pint, half pint and one gill, filled full to the bottom of the cap ring or stopper. The following variations on individual bottles or jars may be allowed: six drams above and six drams below on the half gallon; five drams above and five drams below on the three pint; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the half pint, and two drams above and two drams below on

³⁵ Section 188 is amended by L. 1922, ch. 360, post.

the gill. Bottles or jars used for the sale of milk shall have clearly blown, or otherwise permanently marked, in the sides or bottom of the bottle the name, initials or trade-mark of the manufacturer and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the commissioner upon application by the manufacturer, and a record of the designating numbers and to whom furnished shall be kept in the office of the commissioner. No manufacturer shall sell milk or cream bottles to be used in this state that do not comply as to size and marking with the provisions of the last section. No dealer shall knowingly use, for the purpose of selling milk or cream, jars or bottles that do not comply with the provisions of the last section.

§ 192. **Definition of term "container."** "A container," as used in the following sections of this article, shall include any carton, box, crate, barrel, half-barrel, hamper, keg, drum, jug, jar, crock, bottle, bag, basket, pail, can, wrapper, parcel or package.

Source.—
General
business
law,
§ 17a.

§ 193. **Method of sale of certain commodities.** All meat, meat products and butter shall be sold or offered for sale by net weight; all other commodities not in containers shall be sold or offered for sale by standard net weight, standard measure or numerical count; and such net weight, measure or count shall be marked thereon, or on a label or tag attached thereto; provided however, that vegetables may be sold by the head or bunch.

Source.—
General
business
law,
§ 16.

§ 194.* **Net contents of containers to be indicated on the outside thereof.** When commodities are sold or offered for sale in containers whose sizes are not otherwise provided by statute, the net quantity of the contents of each container, or a statement that the specified weight includes the container, the weight of which shall be marked, shall be plainly and conspicuously marked, branded or otherwise indicated on the outside or top thereof or on a label or a tag attached thereto in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted.

Source.—
General
business
law,
§ 17.

§ 195. **Exceptions.** The provisions of the last two sections shall not apply to containers or commodities in containers with ornamentations or decorations exclusively for gifts or social favors or to commodities dispensed for consumption on the premises, or to commodities or containers put in receptacles used merely for the purpose of carrying or delivering of commodities or containers complying with the provisions of such sections, or when the numerical count of the individual units is six or less, or in the case of liquids when the contents is two fluid ounces or less, or when the weight of the contents is three avoirdupois ounces or less, or to barrels, half barrels, quarter barrels, casks, kegs and packages used for the purpose of containing maltous beverages.

Source.—
General
business
law,
§ 17a.

§ 196. **Guaranty furnished by wholesaler, jobber or manufacturer.** No person shall be prosecuted under the provisions of the last three sections when he can show a guaranty signed by

Source.—
General
business
law,
§ 17b.

* Section 194 is amended by L. 1922, ch. 360, post.

a wholesaler, jobber or manufacturer, residing in the state of New York from whom he purchased the commodity in containers to the effect that they were not incorrectly marked within the meaning of such sections. The person making the sale and guaranty shall then be amenable to the prosecution, fines, and other penalties which would in due course attach to the dealer under the provisions of such sections. The name appearing on the container and the marking as provided by next to the last preceding section shall be deemed to constitute a guaranty.

Source.—
General
business
law,
§ 10.

§ 197. **Construction of contracts.** All contracts made within the state for work to be done, or for the sale or delivery of personal property by weight or measure, shall be taken and construed according to the standards of weights and measures adopted in this article.

ARTICLE 17.

Adulteration, Packing, and Branding of Food and Food Products.

Section 198. Prohibition as to adulterated or misbranded food.

199. Adulteration of food generally.

200. Misbranding of food.

201. When food not deemed adulterated or misbranded.

202. Adulteration of confectionery.

203. Manufacture and sale of imitation maple sugar and syrup prohibited.

204. Branding and labeling of maple sugar and syrup mixtures.

205. Defining honey.

206. Relative to selling a commodity in imitation or semblance of honey.

207. Definition of vinegars and adulterated vinegars.

208. Manufacture and sale of adulterated or imitation vinegar prohibited.

209. Packages containing vinegar to be branded.

210. Branding pork.

211. Branding canned goods.

212. Branding oyster kegs and cans.

213. Repacking fruit and farm produce.

214. Guaranty established.

Source.—
Agricul-
tural law,
§ 200,
first
sentence;
public
health
law,
§ 41, in
part.

§ 198. **Prohibition as to adulterated or misbranded food.** No person or persons, firm, association or corporation shall within this state, manufacture, produce, compound, brew, distill, have, sell, offer or expose for sale, or serve in any hotel, restaurant, eating house or other place of public entertainment any article of food which is adulterated or misbranded within the meaning of this article.

Source.—
Agricul-
tural law,
§ 201, in
part; pub-
lic health
law, § 41,
in part.

§ 199. **Adulteration of food, generally.**²⁷ Food shall be deemed adulterated

1. If any substance be mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength.

2. If any substance has been substituted wholly or in part for the article.

²⁷ See U. S. food and drug act of 1906, ch. 3915, § 7.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

5. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health, provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed on the package, the provisions of this article shall be construed as applying only when said products are ready for consumption.

6. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

7. If it contains methyl or wood alcohol in any of its forms, or any methylated preparation made from it.

§ 200. **Misbranding of food.** An article of food shall be deemed to be misbranded

Source.—
Agricultural law,
§ 201, in
part; public health
law, § 41,
subd. 4.

1. If it be an imitation of or offered for sale under the distinctive name of another article.

2. If the package containing it or its label shall bear any statement regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular.

3. If the package containing it or its label is falsely branded as to the state, territory or country in which it is manufactured or produced.

4. If it be contained in or served in or from any bottle or receptacles falsely marked, labeled or branded as to the name of the person or corporation manufacturing the same.

§ 201. **When food not deemed adulterated or misbranded.** An article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated, or misbranded, in the following cases:

Source.—
Agricultural law,
§ 201, in
part; public health
law, § 41,
in part.

1. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where such article has been manufactured or produced, and if it is not contained in, or served in, or from any bottle or receptacle falsely marked, labeled or branded as to the name of the person, persons or corporation manufacturing the same.

2. In case of articles labeled, branded or tagged, so as to plainly indicate that they are mixtures, compounds, combinations, imitations or blends; provided that the same shall be

labeled, branded or tagged so as to show the character and constituents thereof; and provided further, that nothing in this article shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this article may require to secure freedom from adulteration or imitation.

Source.—
Agricultural law,
§ 201, in
part;
public
health
law, § 41,
in part.

Source.—
Agricultural law,
§ 314.

§ 202. **Adulteration of confectionery.** An article of confectionery shall be deemed adulterated if it contain terra alba, barytes, talc, chrome yellow or other mineral substances or poisonous color or flavor or other ingredient deleterious or detrimental to health.

§ 203. **Manufacture and sale of imitation maple sugar and syrup prohibited.** 1. No person shall manufacture for sale, keep for sale, or offer or expose for sale, any sugar in imitation or semblance of maple sugar which is not pure maple sugar, nor any syrup in imitation or semblance of maple syrup, which is not pure maple syrup, nor shall any person manufacture, offer or expose for sale any sugar as and for maple sugar which is not pure maple sugar, nor any syrup as and for maple syrup which is not pure maple syrup.

2. For the purpose of this article the term "maple sugar" shall be deemed to mean sugar made from pure maple sap or pure maple syrup, and the term "maple syrup" shall be deemed to mean syrup made from pure maple sap.

Source.—
Agricultural law,
§ 315.

§ 204. **Branding and labeling of maple sugar and syrup mixtures.** No person shall manufacture, sell or expose for sale, any compound or mixture as and for sugar which shall be made up of maple sugar mixed with any other sugar or any other substance without branding or labeling the said sugar with a statement giving the ingredients of which it is made up. No person shall manufacture, sell, expose for sale or offer for sale any compound or mixture as syrup which shall be made up of maple syrup mixed with any other syrup or ingredient without branding or labeling said syrup with a statement giving the ingredients of which it is made up. This shall not be construed to apply to a syrup or syrups manufactured and sold for medicinal purposes only.

Source.—
Agricultural law,
§ 301.

§ 205. **Defining honey.** The terms "honey," "liquid or extracted honey," "strained honey," or "pure honey," as used in this article, shall mean the nectar of flowers that has been transformed by, and is the natural product of the honey-bee, taken from the honeycomb and marketed in a liquid, candied or granulated condition.

Source.—
Agricultural law,
§ 302.

§ 206. **Relative to selling a commodity in imitation or semblance of honey.** No person or persons shall sell, keep for sale, expose or offer for sale, any article or product in imitation or semblance of honey branded as "honey," "liquid or extracted honey," "strained honey" or "pure honey" which is not pure honey. No person or persons, firm, association, company or corporation, shall manufacture, sell, expose or offer for sale, any

compound or mixture branded or labeled as and for honey which shall be made up of honey mixed with any other substance or ingredient. There may be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients, but it shall not be sold, exposed for sale, or offered for sale as honey; nor shall such compound or mixture be branded or labeled with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled with the word "honey," unless such article is pure honey.

§ 207.²² **Definition of vinegars and adulterated vinegars.** All vinegars made by fermentation without distillation must carry in solution the extractive matter derived exclusively from the substances from which they were fermented.

Source.—
Agricultural law,
§ 70.

The terms "cider vinegar," "apple vinegar" shall be construed to mean the product made exclusively from the juices pressed from apples, by alcoholic and subsequent acetous fermentations, the acidity, solids and ash of which have been derived exclusively from the apples from which it was fermented.

The term "sugar vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses or refiner's syrup.

The term "malt vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of an infusion of barley malt.

The terms "wine vinegar," "grape vinegar," shall be construed to mean the product made by the alcoholic and subsequent acetous fermentation of the juice of grapes.

The term "glucose vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of corn-sugar or glucose.

The terms "spirit vinegar," "distilled vinegar," "grain vinegar" shall be construed to mean the product made by the acetous fermentations of dilute distilled alcohol.

All vinegars which contain any added drugs, acids, coloring matter or ingredients not derived exclusively from the substances from which they were respectively made, or which shall contain less than four grams of acetic acid in one hundred cubic centimeters of the vinegar at twenty degrees centigrade, shall be deemed adulterated. Nothing herein shall be deemed to prohibit the manufacture of vinegar for consumption elsewhere than within this state, of such acid content as may be elsewhere required.

The product made by the destructive distillation of wood, known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, vegetables, sugar or syrup shall not be sold, offered, exposed or had in possession for sale, for food.

²²Section 207 is amended by L. 1922, ch. 136, post.

Mixtures of two or more of the vinegars herein defined are compounds, and the packages containing the same shall be plainly marked or branded with the word "compound" together with the proportions of the vinegars so mixed in addition to the other requirements of section two hundred and nine of this article.

Packages containing vinegars made from wine or fruits which have been reduced with water must be plainly marked or branded "reduced to ——— per centum acid strength" indicating the acidity to which they have been so reduced, or words equivalent thereto.

Source.—
Agricul-
tural law,
§ 71.

§ 208. **Manufacture and sale of adulterated or imitation vinegar prohibited.** No person, firm or corporation shall manufacture, sell, offer, expose or have in possession for sale in this state:

1. Any vinegar defined herein not in compliance herewith.
2. Any adulterated vinegar.
3. Any vinegar or product in imitation of cider or apple vinegar which is not cider or apple vinegar.
4. As or for cider or apple vinegar any vinegar or product which is not cider or apple vinegar.

Source.—
Agricul-
tural law,
§ 72.

§ 209. **Packages containing vinegar to be branded.** Every manufacturer or producer of vinegar shall plainly brand each cask, barrel or other container of such vinegar with his name and place of business, the kind of vinegar contained therein and the substance or substances from which it was made. And no person shall mark or brand as or for cider or apple vinegar any package containing that which is not cider or apple vinegar. Every person who sells any vinegar other than pure cider or apple vinegar, except it be delivered to the purchaser in the unbroken package in which such seller received it, shall plainly and conspicuously mark or brand the receptacle or container in which such vinegar is delivered to the purchaser, whether such receptacle or container be furnished by the seller or purchaser, with a label showing the kind of vinegar so delivered and the substance or substances from which it was made. Nothing herein shall be deemed to prohibit the sale of cider vinegar stock, provided it be sold as and for such and in compliance with the provisions of this article as to marking or branding. The term "cider vinegar stock" when used herein, shall be construed to mean acetified apple juice of less acidity than that required for vinegar which contains sufficient alcohol to develop the acidity required in vinegar.

Source.—
General
business
law,
§ 242.

§ 210. **Branding pork.** Each barrel of pork shall be branded on one of its heads by its name, and contain either "mess pork," "prime pork" or "cargo pork." "Mess pork" consists of the sides of good, fat hogs, exclusive of all other pieces. "Prime pork" is pork of which there is in a barrel not more than three shoulders, the legs being cut off at the knee joint, not more than twenty-four pounds of heads which have the ears and snouts cut off, the snouts cut off to the opening of the jaws, and the brains and bloody gristle taken out of the heads; and the rest made up

of side pieces, neck and tail pieces. "Cargo pork" is pork of which there is not in a barrel more than thirty pounds of head and four shoulders, and it shall be otherwise merchantable pork. "Side pork" so repacked, shall be cut from the back bone to the belly, in pieces about five inches wide, and which in weight are not under four pounds; otherwise, the barrels containing the same shall not be branded merchantable pork.

§ 211. **Branding canned goods.** No packer or dealer in hermetically sealed, canned or preserved fruits, vegetables or other articles of food within this state, excepting canned or condensed milk or cream, shall sell or offer the same for sale for consumption within this state, unless the cans or jars containing the same shall have plainly printed upon a label thereupon, with a mark or term clearly indicating the grade or quality of the articles contained therein, the name, address and place of business of the person or corporation canning or packing them, or the name of the wholesale dealer in the state selling or offering the same for sale, and the name of the state, county and city, town or village where packed, preceded by the words "packed at."

Source.—
General
business
law,
§ 290,
in part.

If containing soaked goods or goods put up from products dried or cured before canning, there shall also be printed upon the face of such label in good legible type, one-half of an inch in height and three-quarters of an inch in width the word "soaked."

Goods imported from foreign countries of foreign manufacture shall not be subject to the provisions of this section.

The provisions of this section shall not apply to hermetically sealed or canned or preserved foods in containers which are labeled in accordance with the provisions of the act of congress of June thirtieth, nineteen hundred and six, relating to misbranded and adulterated foods.

§ 212. **Branding oyster kegs and cans.** Every person engaged in putting up oysters for sale in kegs or cans, or offering them for sale in kegs or cans, not previously marked or branded, shall mark or brand such kegs or cans with the true quantity of oysters in pints, quarts or gallons, which they may respectively hold, and not more than one-quarter of such quantity shall be liquid.

Source.—
General
business
law,
§ 296,
in part.

§ 213. **Repacking fruit and farm produce.** A person, firm or association who purchases fruit or farm produce in barrels, boxes or other packages, and empties, or causes to be emptied, such barrels, boxes or other packages, and repacks, or causes to be repacked therein the same or other fruit or farm produce, shall before any such repacked barrel, box or other package is sold, or offered or exposed for sale, erase or otherwise obliterate the name of the grower or producer, if found thereon.

Source.—
General
business
law,
§ 292,
in part.

§ 214. **Guaranty established.** 1. No dealer shall be prosecuted under the provisions of this article when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing or having a place of business within the state

Source.—
Agricultural law,
§ 203.

from whom he purchased the articles to the effect that the same are not adulterated or misbranded within the meaning of this article. Said guaranty to afford protection shall contain the name and address of the guarantor and in such case the guarantor shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article.

2. It shall be the duty of the commissioner immediately upon the discovery of evidence that any article of food is adulterated or misbranded within the meaning of this chapter, to notify in writing the dealer selling the same and no guaranty shall exempt any dealer from prosecution if he shall continue to sell such article after having received such written notice.²⁹

ARTICLE 18.

Adulteration, Branding and Sale of Hops, Hay, Ginseng, Coal, Coke, Charcoal and Thread.

- Section 215. Standard weight of hop bales and tare thereon.
 216. Bales of hops to be marked.
 217. Adulteration of hops prohibited; counterfeiting marks.
 218. Presser of hay and straw defined; correct scales to be used; bales to be marked.
 219. Weight to be marked on bale.
 220. Prohibition against the adulteration of hay.
 221. Marketing ginseng.
 222. Coal, coke and charcoal to be sold by weight.
 223. Delivery tickets to accompany coal, coke and charcoal.
 224. Proviso as to delivery of entire cargo or carload of coal.
 225. Sizes and markings of bags and baskets of coal, coke and charcoal.
 226. How coal, coke or charcoal may be reweighed.
 227. Seller shall not refuse to allow coal, coke, or charcoal to be reweighed.
 228. Application of article relating to coal, coke and charcoal.*
 229. Marking thread.

General
business
law,
§ 252.

§ 215. Standard weight of hop bales and tare thereon. A bale of hops sold in this state shall not weigh less than one hundred and seventy-five nor more than two hundred and ten pounds. The tare to be deducted is five pounds. The standard weight of sacking for baling is not less than twenty-four nor more than thirty ounces for each yard; five yards thereof is the maximum quantity to be used for each bale, and any excess in the weight of such sacking or other extraneous matter used in baling may be deducted as additional tare.

* So in original. [Does not conform to section heading.]

²⁹ A § 214a is added by L. 1922, ch. 363, post.

§ 216. **Bales of hops to be marked.** Every person putting up hops for sale or exportation shall mark or stamp on each bale or other package containing the same, in a legible manner, the initial letter of his christian name, and his surname at full length, and the gross weight of such bale or package, before its removal from the place where the hops are put up.

Source.—
General
business
law,
§ 250,
1st para-
graph.

§ 217. **Adulteration of hops prohibited; counterfeiting marks.** No person shall intermix with any hops any foreign or improper substance, or in any manner adulterate their quality.

Source.—
General
business
law,
§ 251,
1st two
paragraphs.

No person shall counterfeit the marks on any bale or package of hops, or empty any bale or package of hops so marked, for the purpose of putting therein other hops for sale or exportation, without first erasing such marks.

§ 218. **Presser of hay and straw defined; correct scales to be used; bales to be marked.** The term "presser" as used in this and the following sections of this article shall mean the person, firm, association or corporation owning or having possession and operating the hay press. A presser who presses hay or straw for market shall use correct scales, properly sealed. Every presser of hay or straw for market shall mark each bale of any of such commodities pressed by him with his name and business address and the correct weight of the bale. These markings shall be made upon a tag, of not less than one and one-half inches in width and three inches in length, securely fastened to the bale.

Source.—
General
business
law,
§ 252,
1st para-
graph.

§ 219. **Weight to be marked on bale.** The gross weight shall be plainly marked on each bale of hay or straw sold or offered for sale in this state; and no baled hay or straw shall be so sold or offered for sale which weighs less than such gross weight after deducting five pounds from such bale for shrinkage. And no baled hay or straw shall be sold or offered for sale with more than twenty pounds of wood to the bale, the weight of which is two hundred pounds or upward, or more than ten pounds of wood for bales weighing less than two hundred pounds.

Source.—
General
business
law,
§ 253,
1st para-
graph.

§ 220. **[Prohibition against the adulteration of hay.]**⁴⁰ No person shall put or conceal in any such bundle of hay any wet or damaged hay, or other materials, or hay of any inferior quality to that which plainly appears upon the outside of such bundle.

Source.—
General
business
law,
§ 254,
1st para-
graph.

§ 221. **Marketing ginseng.** No person shall sell, offer or expose for sale in this state, any ginseng roots or seeds foreign to the United States, or ginseng roots or seeds raised from stock imported from any country outside the United States, except in packages to which shall be securely affixed a label, stating in plain English language, the name of such foreign country in which the roots or seeds were originally grown.

Source.—
General
business
law,
§ 255.

§ 222. **Coal, coke and charcoal to be sold by weight.** Coal, coke and charcoal shall be sold by weight except as hereinafter provided. A person, firm or corporation shall not sell or deliver or attempt to sell or deliver less than two thousand pounds by weight to the ton of coal, coke or charcoal, or a proper proportion thereof in quantities less than a ton, and such coal, coke or

Source.—
General
business
law,
§ 256.

⁴⁰ Section heading inserted by editor.

charcoal shall be duly weighed on scales that have been tested and sealed by the official charged with such testing; provided, however, that in all cases thirty pounds to the ton shall be allowed for the variation in scales and wastage.

Source.—
General
business
law,
§ 384.

§ 223. Delivery tickets to accompany coal, coke and charcoal.

No person, firm or corporation delivering coal, coke or charcoal shall deliver or cause to be delivered any quantity or quantities of coal, coke or charcoal, without each such delivery being accompanied by a delivery ticket, and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds the quantity or quantities of coal, coke or charcoal contained in the cart or wagon or other vehicle used in such delivery, with the name of the purchaser thereof and the name of the dealer from whom purchased. One of such tickets shall be delivered to the purchaser specified thereon, and the other of such tickets shall be retained by the seller. When coal, coke or charcoal is sold in quantities of less than one hundred pounds, in baskets, bags or pails, the provisions of this section shall not apply.

Source.—
General
business
law,
§ 385.

§ 224. Proviso as to delivery of entire cargo or carload of coal. The preceding section shall not apply to coal delivered by the entire cargo direct from the vessel containing the same to one destination and accepted by the purchaser on the original bill of lading as proof of weight, or from a full car loaded with coal; but with every such delivery of an entire cargo or carload of coal there shall be delivered to the purchaser thereof by the consignor, one of the original bills of lading or shipping notices issued to or by the person, firm or corporation by whom the coal was loaded into the vessel or car from which such coal is delivered to the purchaser of the entire cargo or carload thereof, on each of which bills of lading there shall be in ink or other indelible substance distinctly expressed the date and place of loading such cargo or car and the number of pounds contained therein.

Source.—
General
business
law,
§ 386.

§ 225. Sizes and markings of bags and baskets of coal, coke and charcoal. Baskets or bags used for the delivery of coal, coke or charcoal, shall be of such capacity as to hold stricken full approximately one hundred pounds of anthracite coal; but baskets or bags of other sizes used for delivery may be used if the amount of anthracite coal they will contain stricken full is indelibly marked on the outside thereof in solid roman capital letters at least three inches in height. When the coal, coke or charcoal is sold in quantities less than one hundred pounds in baskets or bags or pails, such baskets, bags or pails shall have the weight of the contents plainly marked on the outside thereof in solid roman capital letters at least one inch in height; but charcoal or coke in quantities less than one hundred pounds may be sold by standard dry measure, and in such cases the bag, basket or pail shall have plainly marked on the outside thereof the capacity in terms of standard dry measure in solid roman capital letters at least one inch in height.

§ 226. **How coal, coke or charcoal may be reweighed.** A weights and measures official of the state, of the city or of the county who finds any quantity of coke, coal or charcoal ready for delivery, may in his discretion direct the person in charge of the goods to convey the same without delay to scales designated by such official, who shall there determine the quantity of the goods and shall determine their weight with the weight of the vehicle in which they are carried and shall direct said person to return to such scales forthwith upon unloading the goods, and upon such return the official shall reweigh the vehicle in a manner similar to that in which it was weighed with the goods. The scale designated by the official as aforesaid may be any scale which has been duly tested and sealed and shall be such scales as are in his judgment the most convenient of those available.

Source.—
General
business
law,
§ 227.

§ 227. **Seller shall not refuse to allow coal, coke, or charcoal to be reweighed.** No seller of coal, coke or charcoal shall refuse to permit a weights and measures official to weigh the coal, coke or charcoal purchased from him to be reweighed at the request of the purchaser or at the request of the weights and measures official. No driver or any other person in charge of the vehicle containing coal, coke or charcoal or from which coal, coke or charcoal has been delivered shall refuse to take the same at the request of the purchaser or of the weights and measures official to scales as aforesaid for the purpose of having the same weighed, but when there is a charge for weighing such charge shall be paid by the one making the request.

Source.—
General
business
law,
§ 228.

§ 228. **Application of article.** The provisions of this article relating to coal, coke and charcoal shall not apply to the city of New York.

Source.—
General
business
law,
§ 229a.

§ 229. **Marking thread.** No person, firm or corporation shall sell or offer for sale, sewing, basting, darning, crochet, tatting, knitting or embroidery thread made of cotton, linen or silk, put up on spools, tubes, cones, bobbins or in balls, skeins or other similar packages, manufactured after January first, nineteen hundred and twenty, unless there is affixed to or impressed upon a conspicuous part of each such spool, tube, cone, bobbin, ball, skein or other similar package of such thread, a label or stamp which shall be plain and conspicuous, and which shall plainly indicate, either its net weight in avoirdupois pounds and ounces, or its length in yards; provided that when any such spool, tube, cone, bobbin, ball, skein or other similar package of such thread containing a net weight of less than two avoirdupois ounces, is sold or offered for sale, then such label or stamp shall indicate its length in yards; provided further that where from the shape, size or character of the spool, tube, cone, bobbin, ball, skein or other similar package it is impossible so to affix or impress such label or stamp, a label or stamp shall be affixed to the box or other container in which such packages are put up, stating the number of units contained therein and the net weight or yardage of each, as hereinbefore prescribed.

Source.—
General
business
law,
§ 234,
1st para
graph.

ARTICLE 19.**Cold Storage.****Section 230. Definitions.**

- 231. Temporary storage.
- 232. License to be secured.
- 233. Reports of holdings to be rendered.
- 234. Cold storage food to be marked.
- 235. Leased rooms.
- 236. Cold storage food when sold must be represented as such.
- 237. Food to be condemned.
- 238. Time that cold storage foods may be kept.
- 239. Transfer of food.
- 240. Removal of cold storage marks.
- 241. Prohibits return of food to cold storage when once released for purpose of placing same on market for sale.
- 242. Articles of food stored for export.
- 243. Powers of department.

Source.—
Farms and
markets
law,
§ 90,
subds. 1-3,
§.

§ 230. **Definitions.** 1. The term "food," as used in this article, shall include any article, (except nuts, fruits, cheese, vegetables, ice cream, and articles in process of manufacture, preparation or cure,) used for food by man or animal and every ingredient of such article.

2. The term "cold storage," as used in this article, shall mean the storage or keeping of articles of food at or below a temperature above zero of forty-five degrees Fahrenheit in a cold storage warehouse.

3. The term "cold storage warehouse," as used in this article, shall mean any establishment or structure, or portion thereof, in which food is commonly stored and which is artificially cooled to or below a temperature above zero of forty-five degrees Fahrenheit, except (1) a refrigerator vehicle used as such or (2) an establishment or structure or portion thereof used exclusively for storage of any article or articles for the sole use of the occupant, owner, or maintainer thereof, for consumption by himself or his family or guests, or (3) a temporary storage place as defined in this article.

4. The term "temporary storage place" as used in this article shall mean any establishment or structure, or a separate and distinct portion thereof, artificially cooled to or below a temperature of forty-five degrees above zero Fahrenheit in which food is stored for periods in no case exceeding thirty days.

Source.—
Farms and
markets
law, § 91.

§ 231. **Temporary storage.** Except when such place is used for the storage of food for the sole use of the occupant, owner or maintainer thereof for consumption by himself or his family or guests, no person, firm or corporation shall maintain or operate within this state any temporary storage place in which food is stored at a temperature below twenty degrees above zero Fahren-

heit without a permit to be issued by the commissioner. When such permit has been issued goods may be stored in such temporary storage place for periods not to exceed thirty days and must be marked with the day, month and year in which they were received for storage in such temporary storage place. Provided, further, that it shall be unlawful for any person, firm or corporation to keep or store any food for any period longer than thirty days in any temporary storage place maintained at any temperature either above or below twenty degrees Fahrenheit.

§ 232. **License to be secured.** No person, firm or corporation shall maintain or operate within this state any cold storage warehouse, except when such warehouse is used exclusively for the storage of nuts, fruits, cheese, ice cream or vegetables, without a license to be issued, as prescribed in this article, by the state department of farms and markets. Any person, firm or corporation desiring such a license shall, before beginning to maintain or operate a cold storage warehouse, make a written application for such license to the commissioner on or before the first day of September, and annually thereafter, stating the location of its plant or plants and such other facts as the commissioner shall prescribe. Any applicant desiring to begin the operation of a cold storage warehouse after the first day of October of any year shall, before beginning such operation, file a like application for a license therefor. On receipt of the application the commissioner shall cause an examination to be made into the sanitary condition of such plant or plants, and if found to be in a sanitary condition and otherwise properly equipped to be operated and maintained for cold storage warehouse purposes the commissioner shall, upon payment of a license fee of twenty-five dollars, cause a license to be issued authorizing the applicant to operate a cold storage warehouse until the first day of October next following. An additional license fee of five dollars shall be paid by each applicant for the licensing of each separately operated cold storage plant in excess of one; and a separate license shall be issued for each such additional plant. In the event that any warehouse licensed under the provisions of this section, or any portion thereof, shall be deemed by the commissioner to be conducted in an insanitary manner, it shall be the duty of the commissioner to close such warehouse, or portion thereof, until it shall be put in satisfactory condition, and the commissioner shall have the power also to suspend the license in case the changes required shall not be made within a reasonable time.

Source.—
Farms and
markets
law, § 91a.

§ 233. **Reports of holdings to be rendered.** Every such licensee shall keep accurate records of the articles of food received in and the articles withdrawn from his warehouse or warehouses and shall submit reports to the state department of farms and markets, upon printed forms to be provided by the department, setting forth in itemized particulars the quantity of each and every food stuff in storage with, or in the control of, such licensee except such as are being held in temporary storage as provided

Source.—
Farms and
markets
law, § 92.

in this article. Said report shall be filed on or before the fifth day of each month, and reports so rendered shall show conditions existing upon the last day of the preceding month.

Source.—
Farms and
markets
law, § 92.

§ 234. **Cold storage food to be marked.** No person, firm or corporation shall place, receive or keep in a cold storage warehouse any articles of food unless the same shall be plainly marked, branded, stamped or tagged, either upon the container in which they are stored or upon the article of food itself, with the day, month and year when the same is received in storage; and, except as hereinafter provided, no person, firm or corporation shall remove, or allow to be removed, such article of food from any cold storage warehouse unless the same shall be plainly marked, branded, stamped or tagged, either upon the container in which the said food is removed from storage or upon the food itself, with (a) the name and location of the warehouse where it has been in storage or such other designation for identifying the warehouse as may be approved by the commissioner, and (b) the words "cold storage," except that these words may be omitted when the date of removal is not more than thirty days subsequent to the date when such food was first placed in cold storage either within or without the state, and (c) the day, month and year when the food was received in storage, and (d) the day, month and year in which said food was removed from storage. Such mark, brand, stamp or tag shall be prima facie evidence of such receipt, removal, and the dates thereof.

Source.—
Farms and
markets
law, § 92a.

§ 235. **Leased rooms.** Any person, firm or corporation operating and maintaining a cold storage warehouse who shall lease any room or rooms in such warehouse to any other person, firm or corporation for his or their private use for purposes of storage only shall file with the department of farms and markets, on a form to be provided by the commissioner, a description of such room or rooms with the name and address of the lessee. After such lease has been executed said lessee shall be held responsible for the sanitary condition of such room or rooms and except when such room or rooms are used for the storage of food for the sole use of the lessee for consumption by himself or his family or guests, such lessee shall comply with the provisions of this article for the proper marking of the goods placed therein as provided in sections two hundred and thirty-one and two hundred and thirty-four. Such lessee shall also render a monthly report of the foods being held in such room or rooms as required of licensees by sections two hundred and thirty-three and two hundred and forty-two unless such room or rooms have been designated as a temporary storage place as provided in sections two hundred and thirty and two hundred and thirty-one.

Source.—
Farms and
markets
law, § 94.

§ 236. **Cold storage food when sold must be represented as such.** It shall be unlawful to sell, or to offer for sale, any article of food which has been held for a period of more than thirty days in cold storage either within or without the state, without representing the same to have been so kept. Any invoice or bill

rendered for such foods shall clearly describe the commodities, using the words "cold storage goods." In case of transfer of ownership of foods while still held in cold storage the seller of the same shall notify the buyer in writing of the day, month and year in which said food was originally placed in storage.

§ 237. **Food to be condemned.** No article of food shall be placed, received or kept in any cold storage warehouse or temporary storage place unless the same is in an apparently pure and wholesome condition. The commissioner may seize and condemn any articles of food in any cold storage warehouse or temporary storage place which are found to be unfit for human consumption, and such articles of food shall be destroyed or otherwise disposed of so as to prevent their being used for food, under such conditions as he shall prescribe.

Source.—
Farms and
markets
law, § 94a.

§ 238. **Time that cold storage foods may be kept.** It shall be unlawful for any person, firm or corporation to keep or permit to remain in any cold storage warehouse, any article of food which has been held in cold storage, either within or without the state, for a longer aggregate period than twelve calendar months. In case any article which has been in cold storage in another state shall be placed in storage in any cold storage warehouse in this state, the mark, brand, stamp or tag thereon, if any, shall be presumptive evidence of such storage and of the period of such storage. Any person, firm or corporation to whom a license to operate a cold storage warehouse has been granted under the provisions of this article who shall receive or hold in such warehouse any food owned by another person, firm or corporation, shall send to such owner a written notification to remove such food at least two weeks prior to the expiration of the time limit of twelve calendar months, and it shall be a sufficient defense to an action, civil or criminal, against such a licensee for keeping or permitting to remain in any cold storage warehouse any article of food belonging to another person after the expiration of such time limit that such notice was duly given.

Source.—
Farms and
markets
law, § 94b.

§ 239. **Transfer of food.** The transfer of any food from one cold storage warehouse to another or from one temporary storage place to another for the purpose of evading any provisions of this article is hereby prohibited.

Source.—
Farms and
markets
law, § 95.

Articles of food stored in containers shall not be removed from the same while in a cold storage warehouse or temporary storage place for the purpose of further storage or for repacking or for removal from the warehouse or temporary storage place unless each individual unit of said articles or the containers in which they are repacked shall be marked in a manner identical with the marking, if any, on the original container; provided, however, that the name of the warehouse where such goods were previously stored may be omitted in such marking. If such repacked goods have been taken from original packages, stored on different dates and commingled, the repacked goods shall be marked in a manner identical with the marking on that one of the original packages which has been in cold storage for the longest period.

Source.—
Farms and
markets
law, § 95a.

§ 240. **Removal of cold storage marks.** It shall be unlawful for any person to alter, mutilate, destroy, obscure, obliterate or remove any mark required by this article to be placed on any article of food or the container thereof while the same is being held in storage or for purposes of resale.

Source.—
Farms and
markets
law, § 96.

§ 241. **Prohibits return of food to cold storage when once released for purpose of placing same on market for sale.** When food has been in cold storage and is released therefrom for the purpose of placing the same on the market for sale it shall be a violation of the provisions of this article to again place such food in cold storage, except when such goods have actually been sold and are being held for delivery on order from the purchaser thereof and have not already been in cold storage for a period longer than twelve months.

Source.—
Farms and
markets
law, § 96a.

§ 242. **Articles of food stored for export.** The provisions of this article shall not apply to any articles of food held in cold storage awaiting shipment to any foreign country, except that such food when received or placed in cold storage shall be marked in such manner as to indicate the day, month and year when it is received for storage; but if such articles of food be not actually exported, this section shall not exempt such articles of food from the operation of this article. When such articles of food are placed in cold storage awaiting shipment to any foreign country they shall be further marked with the words "for export" and with a lot number which shall serve to identify the same in the books and records kept by the licensee. On the fifth day of each month every licensee shall submit a report to the state department of farms and markets, setting forth in itemized particulars the date received, the lot number and the quantity and kind of foodstuff in such lot, of all articles of food being held in cold storage awaiting shipment to any foreign country as the same existed on the last day of the preceding month. Immediately following removal from cold storage of any lot or portion of such lot hereinbefore mentioned the licensee shall submit a report of such removal to the state department of farms and markets, stating the lot number of the food removed, the date when placed in cold storage, the date removed from cold storage, the quantity and kind of foodstuff removed from cold storage, the name and address of the consignee, the port of export and the permit number under which export is to be made.

Source.—
Farms and
markets
law, § 97.

§ 243. **Powers of department.** The department, through the commissioner, is hereby invested with full power and authority to inspect and supervise all places in this state now used or hereafter to be used for cold storage or temporary storage purposes, and for such purpose shall be vested with all the powers granted by this article or under any other article of this chapter. The power of supervision hereby granted shall extend to enable the commissioner to adopt such reasonable rules and regulations as may be determined upon from time to time as essential to the proper protection of the consumer of the commodities kept and preserved in such place or places.

ARTICLE 20.**Sale of Farm Produce on Commission.****Section 244. Definitions.***

245. Sale of farm produce on commission; license therefor.

246. Bond and distribution of moneys recovered thereon.

247. Power of commissioner to investigate.

248. Granting and revoking licenses.

249. Certiorari to review.

250. Report of sale to consignor.

251. Offenses.

§ 244. Definitions as used in this article. 1. The term commission merchant shall include every person, firm, exchange, association and corporation licensed under this article to receive, sell or offer for sale on commission within this state any kind of farm produce; except where such farm produce is sold for consumption and not for resale. This article shall not apply to the sale of farm produce at public auction by a duly licensed and bonded auctioneer, acting as the agent of another to whom such farm produce shall have been consigned; nor shall this article apply to seeds sold at retail.

Source.—
Agricultural law,
§ 223.

2. The term farm produce shall include all agricultural, horticultural, vegetable and fruit products of the soil, live stock and meats, wool, hides, poultry, eggs, dairy products, nuts and honey, but shall not include timber products, floricultural products, tea or coffee.

§ 245. Sale of farm produce on commission; license therefor. No person, firm, exchange, association or corporation, shall receive, sell or offer for sale on commission within this state any kind of farm produce, without a license as provided in this article. Every person, firm, exchange, association and corporation in this state receiving farm produce for sale on commission shall, annually on or before June first, file an application with the commissioner for a license to do a commission business in farm produce. Such applicant shall state the kind or kinds of farm produce which the applicant proposes to handle, the full name of the person, firm, exchange, association or corporation applying for such a license and if the applicant be a firm, exchange, corporation or association, the full name of each member of the firm, or the names of the officers of the exchange, association or corporation, and the name of the local agent of the exchange or association and the city, town or village and street number at which the business is to be conducted. Such applicant shall further satisfy the commissioner of his or its character, responsibility and good faith in seeking to carry on a commission business. The commissioner shall thereupon issue to such applicant, on payment of ten dollars and the execution and delivery of a bond as hereinafter provided, a license entitling the applicant to conduct the business of receiving and selling

Source.—
Agricultural law,
§ 223.

* So in original. [Does not conform to section heading.]

farm produce on commission at the place named in the application until the first day of July next following.

Source.—
Agricultural law,
§ 224.

§ 246. **Bond and distribution of moneys recovered thereon.** Before any such license shall be issued every applicant shall execute and deliver to the commissioner a fidelity bond with satisfactory sureties in the sum of three thousand dollars to secure the honest accounting to the consignor of the moneys received or due and owing by such commission merchant from the sale of the farm produce sold on commission, and the commissioner may bring an action in any court of competent jurisdiction in the county in which is situated the place of business of the licensee, against the principal and sureties for the recovery of any such moneys.

The commissioner shall within thirty days after final recovery of the moneys upon said bond, proceed to distribute said moneys so recovered among the consignor creditors entitled thereto unless prevented from so doing by a court order, and if a court order is made preventing such distribution then he shall make such distribution as herein provided within thirty days after the vacating of said court order. The manner of distribution shall be as follows: If the recovery is had upon the bond and the amount so recovered is sufficient to pay the claims of the consignor creditors in full, then each claim shall be fully paid. If it is not sufficient, then the money shall be paid pro rata on each such claim.

This act shall apply to all claims unliquidated at the time of the taking effect of this act.

Source.—
Agricultural law,
§ 225.

§ 247. **Power of the commissioner to investigate.** The commissioner shall have power to investigate, upon the verified complaint of an interested person, the record of any person, firm, exchange, corporation or association applying for a license, or any transaction involving the solicitation, receipt, sale or attempted sale of farm produce on a commission basis, the failure to make proper and true accounts and settlements at prompt and regular intervals, the making of false statements as to condition, quality or quantity of goods received, or while in storage, the making of false statements as to market conditions, with intent to deceive, or the failure to make payment for goods received or other alleged injurious transactions; and for such purpose may examine at the place of business of the licensee, that portion of the ledgers, books of account, memoranda or other documents, relating to the transactions involved, of any commission merchant, and may take testimony therein under oath. When a consignor of farm produce fails to obtain satisfactory settlement in any transaction, after having notified the consignee, a verified complaint may be filed, at the expiration of ten days after such notification, with the commissioner. The commissioner shall attempt to secure an explanation or adjustment, failing in which, he shall cause a copy of the complaint, together with a notice of a time and place for a hearing thereon, to be served personally, or by mail, upon such commission merchant. Such service shall

be made at least seven days before the hearing, which shall be held in the city, village or township in which is situated the place of business of the licensee. At the time and place appointed for such hearing, the commissioner or an assistant commissioner shall hear the parties to such complaint, and shall make and file in the office of the commissioner a decision either dismissing such complaint or specifying the facts which he deems established on such hearing.

In case of failure by a commission merchant to pay consignor creditors for farm produce received from said consignors to be sold on commission, or in case of the bankruptcy of, or the revocation of the license of, such commission merchant, or the discontinuance of the business of such commission merchant for any other reason, the commissioner shall proceed to ascertain the names and addresses of all consignor creditors of such commission merchant, together with the amounts due and owing to them by such commission merchant, by advertising in at least two commercial or produce papers within the state, at least once each week for a period of eight weeks, notifying in such advertisement all such consignor creditors to file a verified statement of their claims with the commissioner within thirty days of the expiration of the period of notice, and that claims not filed during that time will not receive consideration. At the end of thirty days from the termination of such period, the commissioner shall proceed to bring an action on the bond which has been filed in the department by said commission merchant.

§ 248. **Granting and revoking licenses.** The commissioner may decline to grant a license or may revoke a license already granted where he is satisfied of the existence of the following cases or any of them:

Source.—
Agricul-
tural law,
§ 286.

1. Where a money judgment has been entered against such commission merchant and upon which execution has been returned unsatisfied.

2. Where false charges have been imposed for handling or services rendered.

3. Where there has been a failure to account promptly and properly or to make settlements.

4. Where there has been any false statement or statements as to condition, quality or quantity of goods received or held for sale on commission when the same might be known on reasonable inspection.

5. Where there have been any false or misleading statement or statements as to market conditions or service rendered.

6. Where there has been a combination or combinations to fix prices.

7. Where the commission merchant directly or indirectly purchases the goods for his own account without prior authority therefor or without notifying the consignor thereof.

The commissioner, before revoking or determining to revoke any license issued under the provisions of this article shall give the licensee notice of the time and place of a hearing to determine whether such license shall be revoked. Such notice shall

be served upon the licensee in the manner provided in the last section for the service of a complaint. At the time and place appointed for such hearing the commissioner shall receive evidence and hear the licensee and shall thereafter file in the office of the commissioner an order either dismissing the proceeding or revoking such license.

Source.—
Agricultural law,
§ 287.

§ 249. **Certiorari to review.** The action of the commissioner in refusing to grant a license, or in revoking a license granted under this article, shall be subject to review by a writ of certiorari, and if such proceedings are begun, until the final determination of the proceedings and all appeals therefrom, the license of such commission merchant shall be deemed to be in full force and effect, provided the fee for such license shall have been paid and a bond given as herein required.

Source.—
Agricultural law,
§ 288.

§ 250. **Report of sale to consignor.** Every commission merchant shall, upon the receipt of farm produce and as he handles and disposes of the same, make a record thereof, specifying the name and address of the consignor, the date of receipt, the kind and the quantity of such produce, the amount of goods sold, the selling price thereof and the items of expense connected therewith, and this record together with payment in settlement for said shipment shall be mailed to the consignor within forty-eight hours unless otherwise agreed.

Source.—
Agricultural law,
§ 289.

§ 251. **Offenses.** No person, firm, exchange, association or corporation shall receive or offer to receive, sell or offer to sell on commission within this state any kind of farm produce without a license except as in this chapter permitted and no person who being a commission merchant in farm produce shall (a) impose false charges for handling or services in connection with farm produce, or (b) fail to account for such farm produce promptly and properly and to make settlements therefor, with intent to defraud, or (c) make any false or misleading statement or statements as to market conditions with intent to deceive, or (d) enter into any combination or combinations to fix prices, or (e) directly or indirectly purchase for his or its own account, goods received by him or it upon consignment without prior authority therefor from the consignor, or fail to promptly notify the consignor of such purchase on his or its own account, or (f) if handling, shipping or selling farm produce, make any false statement or statements as to grade, condition, markings, quality or quantity of goods handled, shipped or sold, with intent to deceive.

ARTICLE 21.

Licensing of Milk Gathering Stations.

Section 252. Licensing of milk gathering stations where milk is bought.

253. Power of commissioner to investigate.

254. Granting and revoking licenses.

255. Certiorari to review.

256. Records to be kept.

257. Right to review.

258. Offenses.

§ 252. **Licensing of milk gathering stations where milk is bought.** No person, firm, association or corporation, shall buy milk or cream within the state from producers for the purpose of shipping the same to any city for consumption or for manufacture unless such business be regularly transacted at an office or station within the state and unless such person, firm, association or corporation be duly licensed as provided in this and the ensuing sections of this article. Every such person, firm, association or corporation before engaging or continuing in the business of buying milk or cream for the purposes aforesaid, shall, annually, on or before August first, file an application with the commissioner for a license to transact such business. The application shall state the nature of the business, as hereinabove set forth, the full name of the person or corporation applying for the license, and, if the applicant be a firm or association, the full name of each member of such firm, or association, the city, town or village and street number at which the business is to be conducted, and such other facts as the commissioner shall prescribe. The applicant shall further satisfy the commissioner of his or its character, financial responsibility and good faith in seeking to carry on such business. The commissioner shall thereupon issue to such applicant, on payment of ten dollars, a license entitling the applicant to conduct the business of buying milk and cream from producers for the purpose aforesaid at an office or station at the place named in the application until the first day of September next following; provided, however, that if the application be presented in the month of July, and if the applicant so elects, such license may be granted to begin on the first day of September next following and run for a term of one year. A license shall not be issued, however, to any applicant if during the year preceeding the filing of the application a complaint from any producer and seller of milk or cream shall have been filed with the commissioner against such applicant for any of the grounds specified in section two hundred and fifty-four hereof, and such complaint shall have been established as true and just to the satisfaction of the commissioner after such complaint shall have been investigated by the commissioner in the manner provided by this article. A license shall not be issued as provided in this section, unless the applicant for such license shall file with the application a good and sufficient surety bond, executed by a surety company, duly authorized to transact business in this state, in a sum not less than five thousand dollars, or shall be relieved from such requirement as provided herein. Such bond shall be approved as to its form and sufficiency by the commissioner.

Source.—
Agricultural law,
§ 55.

Such applicant may in lieu of such bond deposit with the commissioner money or securities in which the trustees of a savings bank may invest the moneys deposited therein, as provided in the banking law, in an amount equal to the sum secured by the bond required to be filed as herein provided.

The bond required to be filed hereunder shall be given to the commissioner in his official capacity and shall be conditioned for the faithful compliance by the licensee with the provisions of this chapter, as hereby amended, and for the payment of all amounts due to persons who have sold milk or cream to such licensee, during the period that the license is in force. The money or securities deposited with the commissioner, as above provided, shall constitute a separate fund and shall be held in trust for, and applied exclusively to, the payment of claims against the licensee making such deposit, arising from the sale of milk or cream to such licensee.

Upon default by the licensee in the payment of any money due for the purchase of milk or cream, which payment is secured by a bond or the deposit of money or securities as hereinbefore provided for, the creditor may file with the commissioner, upon a form prescribed by him, a verified statement of his claim. If such creditor shall have reduced such claim to judgment or shall thereafter and before the commencement of the action by the commissioner, as hereinafter provided for, reduce such claim to judgment, a transcript of such judgment shall also be filed with such commissioner.

Such statements may be filed at any time during the period of the license for purchases made during such period and within ninety days from the termination of such period.

After the expiration of ninety days from the termination of any license period the commissioner shall, by proper action wherein all such creditors and any surety upon any bond given as hereinbefore provided for and the licensee shall be parties, proceed to determine the amount due each such creditor, and the judgment rendered in such action shall be enforced ratably for such creditors against the surety on the bond, if one there be, or against the moneys or securities deposited as hereinbefore provided for. If any such creditor shall have reduced his claim to judgment such judgment shall be presumptive proof of the amount due such creditor in any action brought by the commissioner as hereinbefore provided for.

Every bond given pursuant to the provisions hereof shall be applicable, in the first instance, to the payment of all claims arising during the license period for which such bond shall continue, and filed either during such period or within ninety days after the expiration thereof. If all such claims shall be paid the balance available upon such bond shall be devoted to the extinguishment ratably of claims arising during such license period, but for which statements shall not have been filed until after ninety days after the expiration of such period.

All moneys and securities, deposited as herein provided for, shall be applicable, in the first instance, to the extinguishment of claims, properly filed, arising during the license period for which such moneys or securities were originally deposited and if, after the extinguishment of such claims, there shall be a surplus remaining such surplus shall be devoted to extinguishment of

claims arising during any preceding license period which were properly filed as hereinbefore provided, all claims for any one license period to be a party. Any surplus remaining after the extinguishment of such prior claims shall be added to the moneys or securities then on deposit with the commissioner or, if there be at that time on file with such commissioner a bond given pursuant to this section, or if there be then on deposit with such commissioner additional moneys or securities deposited as herein provided for, and if such bond or such moneys or securities, as the case may be, shall, in the opinion of the commissioner, be sufficient, such surplus shall be returned to the licensee.

A person or corporation licensed hereunder shall make a verified statement of his or its disbursements during a period to be prescribed by the commissioner, containing the names of the persons from whom such products were purchased, and the amount due to the vendors thereof. Such statement shall be submitted to the commissioner when requested by him and shall be in the form prescribed by such commissioner. If it appears from such statement or other facts ascertained by the commissioner, upon inspection or investigation of the books and papers of such licensee as authorized by this article, that the security afforded to persons selling milk and cream to such licensee by the bond executed or deposit made by such licensee as herein provided does not adequately protect such vendors, the commissioner may require such licensee to give an additional bond or to deposit additional money or securities, to be executed or deposited as above provided, in a sum to be determined by the commissioner, but not exceeding by more than twenty-five per centum the maximum amount paid out by such licensee to sellers of milk in any one month: Provided, however, that the maximum amount of the bond or deposit required from any applicant under the provisions of this section shall be one hundred thousand dollars; and that any applicant filing a bond or depositing money or securities in such maximum amount shall be exempted from filing either the statements of milk purchased, or the statements of disbursements in this section provided for.

If the applicant for a license under this section be a person or a domestic corporation, the commissioner may, notwithstanding the provisions of this section, if satisfied from an investigation of the financial condition of such person or domestic corporation that such person or corporation is solvent and possessed of sufficient assets to reasonably assure compensation to probable creditors, by an order filed in the department, relieve such person or corporation from the provisions of this section requiring the filing of a bond.

The term "station" or "milk gathering station," as used in this and the ensuing sections of this article, shall include an established office where the business of buying milk or cream as herein provided is carried on, with or without a place or premises in connection therewith for the physical handling of milk or cream.

Source.—
Agricultural law,
§ 56.

§ 253. **Power of commissioner to investigate.** The commissioner and his assistants shall have power to investigate upon the complaint of any interested person, or of his own motion, the record of any person, firm or corporation applying for or holding a license, or any transaction involving the purchase by such applicant or licensee or attempted purchase of milk for shipment as provided in this article; and for such purpose may examine the ledgers, books of account, memoranda or other documents of any such person, firm, association or corporation applying for or holding a license and may take testimony therein under oath; but information relating to the general business of any such person, firm, association or corporation, disclosed by such investigation and not relating to the immediate purpose thereof shall be deemed of a confidential nature by the commissioner, his assistants, representatives and employees. When a complaint is filed with the commissioner, he shall attempt to secure a satisfactory explanation or adjustment, and if he shall fail to secure the same within ten days, he shall cause a copy of the complaint, together with a notice of the time and place for a hearing thereon, to be served personally or by mail upon said applicant or licensee. If served by mail, such complaint and notice shall be directed to the applicant or licensee at his place of business, with postage fully prepaid thereon. Such service shall be made at least seven days before the hearing. At the time and place appointed for such hearing, the commissioner or his assistant shall hear the parties to the complaint, shall have power to administer oaths and shall thereafter file in the office of the commissioner a decision either dismissing such complaint or specifying the facts which he deems established on such hearing.

Source.—
Agricultural law,
§ 57.

§ 254. **Granting and revoking licenses.** The commissioner may decline to grant a license or may revoke a license already granted when he is satisfied of the existence of the following cases or either of them:

1. Where the applicant or licensee has made a general assignment for the benefit of creditors or has been adjudged a bankrupt.

2. Where a money judgment has been secured by any milk producer and has been entered against such applicant or licensee and remains unsatisfied of record.

3. Where there has been a failure to make prompt settlements to persons from whom he buys milk, with intent to defraud.

4. Where there have been combinations to fix prices.

5. Where there has been a continued course of dealing of such nature as to satisfy the commissioner of the inability of the applicant or licensee to properly conduct the business or of an intent to deceive or defraud customers.

Where there has been a continued and persistent failure to keep records required by the commissioner or by law.

6. Where the licensee has been duly required and notified by the commissioner to give an additional bond or to deposit addi-

tional money or securities as provided in this article and has failed so to do.

The commissioner, before revoking or determining to revoke any license issued under the provisions of this article shall give the licensee notice of the time and place of a hearing to determine whether such license shall be revoked. Such notice shall be served upon the licensee in the manner provided in the last preceding section for the service of a complaint. At the time and place appointed for such hearing the commissioner shall receive evidence and hear the licensee and shall thereafter file in the office of the commissioner an order either dismissing the proceeding or revoking such license.

§ 255. **Certiorari to review.** The action of the commissioner in refusing to grant a license, or in revoking a license granted under this article, shall be subject to review by writ of certiorari, and if such proceedings are begun to review the revocation of license, the license shall be deemed to be in full force and effect until the final determination of certiorari proceedings and all appeals therefrom.

Source.—
Agricultural law,
§ 58.

§ 256. **Records to be kept.** Every proprietor of a milk gathering station shall keep, in such form as the commissioner may prescribe, a record of transactions of purchases of milk or cream by him and he shall, at least semi-monthly, deliver to each person from whom he receives or purchases milk or cream and in the unit of measure used in computing the amount due therefor, an itemized statement of the several amounts or quantities of such milk or cream so received or purchased at such milk station from such person during the prior half month or, if statements are delivered more frequently than semi-monthly during that period of time which has elapsed since the delivery of such last prior statement. If the milk or cream is purchased or received on a butter fat basis, such statement shall include the percentage, or average percentage of butter fat contained in said milk or cream as determined by tests periodical or otherwise. Every such proprietor of a milk gathering station shall post in a conspicuous place in such milk station, a schedule of the prices being paid for milk or cream including the premiums paid or deductions made, if any, for milk or cream containing milk fat either in excess or in lesser amount than the agreed standard, and shall keep a correct account of all the milk or cream daily received or purchased from each person at such milk station which account shall be open to inspection by said person.

Source.—
Agricultural law,
§ 59.

§ 257. **Right to review.** If either party to the transaction of purchase and sale between a milk producer or a milk seller and a licensed buyer of milk shall be dissatisfied relative to any transaction of purchase and sale of milk between a milk seller and a licensed buyer of milk, he may apply to the commissioner, in writing, within sixty days after the delivery of such milk to the licensed buyer, for investigation. The commissioner shall treat such application as a complaint, and shall cause a full investigation of the transaction complained of to be made either by him-

Source.—
Agricultural law,
§ 60.

self or one of his assistants, in the manner provided by section two hundred and fifty-three.

Source.—
Agricultural law,
§ 61.

§ 258. **Offenses.** No person who, being a buyer of milk for shipment for the purposes set forth in this article, whether such person be licensed or whether his business be transacted at a station or otherwise, shall (a) fail to make prompt payments for milk purchased, with intent to defraud, or (b) shall make any false or misleading statement or statements enumerated in this article, with intent to deceive, or (c) enter into any combination to fix prices, or (d) not being licensed, shall conduct the business of buying milk for shipment as provided in this article, or (e) being licensed or otherwise, engage in such business without having a station or office therefor, or (f) fail to conform to any requirement of or violate any provision of this chapter, with intent to deceive a seller of milk.

ARTICLE 22.

Departments of Markets in Cities.

- Section 259. Definitions.
 260. Establishment of department of markets.
 261. Jurisdiction.
 262. Seal.
 263. Transfer of functions, powers and duties.
 264. Transfer of officers and employees.
 265. Transfer of property, records and appropriations.
 266. Transfer of markets.
 267. Dedication or acquisition of land for public markets.
 268. State aid for public markets.
 269. Rules.
 270. When rules to take effect; punishment for violation.
 271. Renting of stalls and stands.
 272. Inspection of food.
 273. Acting as auctioneer without license prohibited.
 274. License of auctioneers.
 275. Suspension or revocation of license of auctioneer.
 276. Disposition of consignment of food.
 277. Bureau of information.
 278. Limitation of article.
 279. Establishment of department of markets for county or for county and city.

Source.—
Farms and
markets
law, § 70.

§ 259. **Definitions.** As used in this article.

1. The term "market" means any building, structure or place, the property of a city or under lease to or in the possession of a city, used or intended to be used as a public market for the buying, selling or keeping for sale of food, flowers or ornamental plants, or any part of a street, avenue, parkway, plaza, square or other public place assigned to or set apart by law or ordinance or other competent authority to be used for such purpose;

2. The term "market produce," includes food, flowers and ornamental plants.

§ 260. **Establishment of department of markets.** A department of markets may be established in a city under the provisions of this article, by resolution of the board of estimate and apportionment of the city, if there be such board, approved by the common council, board of aldermen or corresponding legislative body, or in a city having no such board of estimate and apportionment, by resolution of the common council, board of aldermen or corresponding legislative body of such city. Such department shall be under the control and management of a commissioner of public markets. He shall be appointed by and may be removed at the pleasure of the mayor of such city, and his compensation shall be fixed by the local authorities, if any, of such city, vested by law with the general power of fixing salaries therein, or if there be no such authorities, by the common council, board of aldermen or corresponding legislative body of the city.⁴¹

Source.—
Farms and
markets
law, § 71.

§ 261. **Jurisdiction.** Upon the appointment of a commissioner of public markets in any city, the department of public markets therein shall have power, charge and control

Source.—
Farms and
markets
law, § 72.

1. Of the construction, repair, maintenance and management of all public markets, market places and market lands of such city, and of all buildings, structures and facilities thereon;

2. Of fixing fees for services, licenses and privileges and of renting space therein and entering into leases therefor, except as herein otherwise provided;

3. Of making rules for the government of the department and of the public markets, market places and market lands not in conflict with the rules of the council of farms and markets, and subject to the approval of the board of estimate of the city, or if there be no such board, of the common council, board of aldermen or other corresponding legislative body of such city;

4. Of granting or revoking licenses to auctioneers of food in such markets and of fixing a schedule of commissions to be charged by auctioneers;

5. Of granting, transferring or revoking permits to buy or sell in such market or upon such market places or lands;

6. Of investigating any complaint in relation to the shipment of food to any public market of the city.

§ 262. **Seal.** A department of public markets established in a city, pursuant to this article, may adopt a seal of which the courts of the state shall take judicial notice.

Source.—
Farms and
markets
law, § 73.

§ 263. **Transfer of functions, powers and duties.** All the functions, powers and duties in respect of the management and control of public markets in a city which shall establish a department of markets, pursuant to this article, vested in and imposed on other departments, boards, commissions or officers of such city by any general law, city charter, or other law or ordinance, shall be transferred to, vested in and be performed by the department of public markets of such city.

Source.—
Farms and
markets
law, § 74.

⁴¹ A § 260a is added by L. 1922, ch. 633, post.

Source.—
Farms and
markets
law, § 75.

§ 264. Transfer of officers and employees. Where existing powers and duties of a department, office, division, bureau, position or employment, or officer or employee of a city, are by this article conferred or imposed upon the department of public markets, the board of estimate and apportionment of such city, or if there be no such board, the common council, board of aldermen or corresponding legislative body, shall upon the establishment of the department of public markets designate from among the officers and employees exercising such powers and duties at the time of the appointment of the commissioner of public markets, the officers and employees to be transferred to the department of public markets. Such officers and employees shall be transferred, without change of salary, and shall be assigned to duty by the commissioner of public markets. Service in the department, office, division, bureau, position or employment from which transferred shall for all purposes be counted as services in the department of public markets.

Source.—
Farms and
markets
law, § 76.

§ 265. Transfer of property, records and appropriations. Where existing powers or duties of a department, office, division, bureau, position or employment, or officer or employee of a city are, by this article, conferred or imposed upon the department of public markets, or transferred to the department of public markets, all property, and such records, books, papers and documents relating to markets as the board of estimate and apportionment, or if there be no such board, as the common council, board of aldermen or other corresponding legislative body, shall from time to time determine, within the jurisdiction or control of the department, office, division, bureau, position or employment, or officer or employee now exercising such powers and duties, shall after the establishment of the department of public markets be transferred and delivered to and belong to the department of public markets. Upon the establishment of a department of public markets in a city, the board of estimate and apportionment, or if there be no such board, the common council, board of aldermen or other corresponding legislative body, may, in its discretion, transfer all or part of existing funds and unexpended appropriations made by the city to enable the department, office, division, bureau, officer or employee to exercise the powers and duties so transferred.

Source.—
Farms and
markets
law, § 77.

§ 266. Transfers of markets. All public markets, market places and market lands, existing and maintained as such by any city at the time of the creation therein of a department of public markets under this article, shall continue to be public markets and shall be transferred to the jurisdiction, charge and control of the department of public markets.

Source.—
Farms and
markets
law, § 78.

§ 267. Dedication or acquisition of land for public markets. The local authorities of a city in which a department of public markets shall be created under the provisions of this article, in whom is vested the power to assign lands of such city for public uses, may designate for use as public markets any lands owned by the city and not dedicated or devoted to another inconsistent

use; or any space over the waters of a navigable stream adjoining any dock or wharf of such city, provided such markets shall not interfere with the flow of water of such stream or extend beyond the pier or bulk head line established by law. Any such city may, with the approval of such local authorities and in such manner as may be authorized or provided by law for the acquisition of land for public purposes in such city, acquire land in such city for public market purposes, or if there be no law authorizing such acquisition, the board of estimate and apportionment of such city, or if there be no such board, the common council, board of aldermen or corresponding legislative body, may acquire land for such purpose by private purchase or by condemnation.

§ 268. **State aid for public markets.** (1) The commissioner of public markets of a city, in which a department of markets shall have been heretofore or shall hereafter be established as provided in this article, may when authorized by the city submit to the commissioner of farms and markets a proposal for the location and construction, repair or improvement of one or more public markets in such city with storage facilities for such market or markets and request that state aid be given for such purpose as provided in this section.

Source.—
Farms and
markets
law, § 78a.

(2) The commissioner of public markets of such city shall submit such proposal by petition, in the form and manner prescribed by the commissioner of farms and markets. Such petition shall (a) give the location and describe in detail the lands owned by the city and dedicated or assigned for use as public markets, or lands to be acquired for such use, as provided by the last preceding section, upon which it is proposed to construct new public markets or to repair or improve existing public markets in such city; (b) describe the character of the proposed construction, repair or improvement; (c) state the estimated value of the lands dedicated or assigned, or to be acquired for use as public markets, and the estimated cost of the proposed construction, repair or improvement; (d) specify generally the public necessity for the acquisition of the lands described for public market purposes and for the construction of new public markets on such lands, and for the construction, repair or improvement of public markets on lands already owned by the city and dedicated or assigned for use as public markets, and (e) set forth such other matters as may be required by the commissioner of farms and markets. The commissioner of public markets of such city shall submit with such petition detailed plans and specifications for the construction of the proposed new public market or markets, or for the repair or improvement of one or more existing public markets in such city.

(3) Upon the submission of such petition and plans and specifications, the commissioner of farms and markets shall cause an investigation to be made of the matters submitted in such petition, and shall determine as to whether or not a public necessity exists for the acquisition of lands and the construction, repair or im-

provement of public markets in such city. The commissioner shall visit and inspect the locations of the lands proposed to be acquired or already acquired and dedicated or assigned for use as public markets, and shall determine as to the suitability of such lands for public market purposes and as to the propriety of constructing, repairing or improving public markets thereon. The commissioner shall also examine the plans and specifications for the proposed construction, repair or improvement of such public markets, and determine whether such public markets should be constructed, repaired or improved in accordance with such plans and specifications. The commissioner may recommend such modifications or alterations of such plans and specifications as he may deem advisable and return the same to the commissioner of public markets of such city.

(4) If the commissioner approve the location of the proposed new public markets and the plans and specifications of the public markets to be erected thereon, or in the case of existing public markets, if the commissioner approve of the proposed repair or improvement and of the plans and specifications therefor, he shall issue a certificate of such fact to the commissioner of public markets of such city and shall state therein the maximum amount which in his opinion should be expended for the acquisition of the lands for the proposed new public markets and for the construction of public markets thereon, or in case of the repair or improvement of existing public markets, the maximum amount which should be expended for such repair or improvement.

(5) If it is proposed to erect new public markets on lands owned by the city and dedicated or assigned for use as public markets, or to repair or improve existing public markets, the commissioner shall appraise the value of such lands or of such existing public markets and shall issue a certificate of the value as so appraised to the commissioner of public markets of such city.

(6) If the lands described in such petition, the location of which shall have been approved by the commissioner, are acquired by the city as provided in this article and dedicated or assigned for use as public markets, and new public markets are constructed upon such lands in accordance with plans and specifications which have been approved by the commissioner, or if new public markets are constructed upon lands already owned by the city and dedicated or assigned for use as public markets, in accordance with plans and specifications so approved by the commissioner, or if existing public markets are repaired or improved in accordance with plans and specifications so approved by the commissioner, one-half of the maximum amount certified by the commissioner as above provided, shall be paid by the state out of moneys appropriated or made available therefor as provided by law. The remainder of the cost of the acquisition of such lands and of the construction, repair or improvement of public markets thereon, shall be paid by the city.

(7) If the commissioner of farms and markets shall approve of the proposed locations of lands dedicated or assigned, or to be dedicated or assigned, for public markets in such city, and shall have approved as herein provided of the plans and specifications for the construction, repair or improvement of such public markets, all conveyances or transfers of such lands to the city shall be approved as to their form and sufficiency by the commissioner of farms and markets, and all contracts for the construction, repair or improvement of public markets in accordance with the plans and specifications approved by the commissioner as herein provided, shall before they become effectual be submitted to and approved by such commissioner. No payments shall be made by the state as provided herein unless the commissioner of farms and markets shall have approved such conveyances, transfers and contracts as above provided.

(8) The portion of the expenditures for the acquisition of lands for public markets and for the construction, repair and improvement of public markets, which is to be paid by the state shall be paid to the city by the state treasurer out of moneys appropriated or available therefor, upon the certificate of the commissioner of farms and markets on the warrant of the comptroller. The moneys so paid shall be applied by the city exclusively for the payment of the cost of the acquisition of the lands acquired by the city and dedicated for public markets, and for the construction, repair and improvement of public markets thereon in accordance with the provisions of this section.

(9) Upon the acquisition of lands by the city and the dedication or assignment thereof for use as public markets, and the completion of the construction of new public markets thereon or of the repair and improvement of existing public markets as provided herein, such public markets shall be under the supervision and control of the department of public markets of the city, subject to the provisions of this article. The commissioner of public markets shall submit to the commissioner of farms and markets a report at least once in each period of three months, or oftener if required by the commissioner, containing a statement of the fees and other receipts collected for the use of the public markets, for the construction, repair or improvement of which the state has contributed as provided herein. The commissioner shall prescribe the form of such reports and may inspect through officers, employees or agents of the department of farms and markets the books and accounts of the commissioner of markets of such city, for the purpose of determining the amount received for the use of such public markets. The commissioner of public markets in such city shall pay to the department of farms and markets such proportion of the net receipts collected for the use of such public markets, including services, licenses and privileges and of renting space therein, as the payments by the state under the provisions of this section, for the acquisition of lands for public markets and the construction, repair or improvement of public markets, bear to the total amount expended for the acquisition of such lands and the construction, repair or improvement of

public markets, including the appraised value of lands owned by the city and of existing public markets so repaired or improved. The net receipts shall be ascertained by deducting from the gross receipts the expenses of operating such markets according to rules of the department of farms and markets. The amount so paid to the department shall be turned into the state treasury to the credit of the general fund.

(10) It shall be the duty of the commissioner of farms and markets to prepare and submit to the legislature a plan of apportionment of all moneys to be appropriated by the state to the several cities so that expenditures under this article shall be available to such cities on an equitable basis.

(11) The governing board of a town or village of ten thousand inhabitants or over may establish a department of markets for such municipality, with the powers, duties and jurisdiction of a department of markets in a city, as prescribed in this article, and may appoint a commissioner of public markets to be head of such department, and fix his compensation, or may provide for the supervision of the department by such governing board or by a designated official or officials of the town or village. When a department of markets shall have been so established in such a town or village the provisions of this section shall apply to such municipality in the same manner and to the same effect that they apply to cities; and references in this section to a city and to the commissioner of public markets thereof shall be deemed to include, respectively, a town or village in which a department of markets shall have been established and the commissioner of public markets thereof, the governing board of the town or village or the designated official or officials in charge of such department, as the case may be.

Source.—
Farms and
markets
law, § 79.

§ 269. Rules. The commissioner of public markets of a city may make, amend or repeal rules for the government, regulation, control, discipline and conduct of

1. The business of the department;
2. The repair, care and use of markets, and concerning fees, the hours during which business shall be conducted, and the general management of the markets;
3. All vehicles, including push carts, from which market produce shall be sold;
4. All auctions conducted in such markets, and all auctioneers doing business therein;
5. The establishment of standards or grades for different classes of market produce, not inconsistent with law or with the rules of the state department of farms and markets;
6. The receipt, handling, storage and sale at public auction of market produce consigned to auctioneers in the markets; the deduction of commissions and other authorized charges by such auctioneers, and the transmission by such auctioneers of the balance to consignors.

Source.—
Farms and
markets
law, § 80.

§ 270. When rules to take effect; punishment for violation. Such rules shall be in force and effect upon the approval thereof by the board of estimate and apportionment of such city, or if

there be no such board, by the common council, board of aldermen or other corresponding legislative body, and upon their publication for at least ten days subsequent to such approval in such newspaper as may be designated by or pursuant to law for the publication of municipal notices of such city, or if there be no such newspaper, in a newspaper designated by the mayor. Such rules shall not be in conflict or inconsistent with the rules of the department of farms and markets adopted as provided in this chapter. A violation of such rules or the orders of the commissioner of public markets, which he is hereby authorized to issue in pursuance thereof, shall constitute a violation of this article and the commissioner of markets may revoke or suspend the license or permit of the offender to do business in any market heretofore issued by any other officer or hereafter issued by the department of public markets.

§ 271. **Renting of stalls and stands.** All stalls and stands in such markets or upon such market places or lands shall be rented on permits issued by the commissioner of public markets or by an officer or employee designated by him for that purpose.

Source.—
Farms and
markets
law, § 81.

§ 272. **Inspection of food.** The consignor or consignee of any food consigned to a tenant, occupant or licensee of space in any such public market shall be entitled to have the same examined by a market inspector when it shall have been received at any such market. The inspector shall immediately report a detailed description, in writing, of the consignment and the condition thereof at the time of his examination to the officer in charge of the market at which the same was received, who shall issue a certificate as to the condition of the consignment, when received, and send copies without delay to the consignor and consignee. Such certificate shall be presumptive evidence of the facts stated therein in any court of the state.

Source.—
Farms and
markets
law, § 82.

§ 273. **Acting as auctioneer without license prohibited.** No person shall carry on hereafter the business of auctioneer of any food in the public markets of any city in which a department of public markets shall have been established under this article without having first obtained a license from such department.

Source.—
Farms and
markets
law, § 83.

§ 274. **License of auctioneers.** The department of public markets shall grant licenses to any person of good character and engaged in the business of auctioneer of one or more kinds of food, on the payment by such person of a license fee of one hundred dollars per annum in cities of the first class, fifty dollars per annum in cities of the second class, and twenty-five dollars per annum in cities of the third class; and the filing of a bond to be approved by the department, with sufficient surety or sureties in the penal sum of five thousand dollars in cities of the first class, twenty-five hundred dollars, in cities of the second class, and one thousand dollars, in cities of the third class, conditioned to save harmless any person with whom such auctioneer shall have official relations in connection with his duties as auctioneer of public markets. An auctioneer licensed under this section shall not be personally interested, directly or indirectly, in the sale of

Source.—
Farms and
markets
law, § 84.

food, except as auctioneer and to the extent of his legal fees and charges as such.

Source.—
Farms and
markets
law, § 85.

§ 275. **Suspension or revocation of license of auctioneer.** The department of public markets, on complaint of any person of misconduct on the part of any such auctioneer or his agent or employee, may grant a hearing thereon and, if the charge be sustained, suspend or revoke the license granted to such auctioneer.

Source.—
Farms and
markets
law, § 86.

§ 276. **Disposition of consignment of food.** Food may be consigned to such farmer's agents as may be authorized to occupy space in any public market, or may be consigned directly to auctioneers licensed by the department of public markets for sale at auction, and such consignment to auctioneers shall be sold as soon as possible after receipt thereof. The city shall not be liable for loss of or injury to any such consignment or part thereof because of any act or omission on the part of any such agent or auctioneers. The department of public markets may provide space and accommodation for the care of all such consignments, and entries of the receipt and sale thereof shall be made by the auctioneer showing the name of the consignor, the name and address of each purchaser of any part thereof, and the amount or amounts received therefor. The auctioneer shall deduct all proper charges against such consignment and his commission as fixed by the schedule established by the rules of the department of public markets, and he shall thereupon transfer the balance of the proceeds of such sale or sales to the consignor.

Source.—
Farms and
markets
law, § 87.

§ 277. **Bureau of information.** The department of public markets of a city may organize and maintain a bureau of information for the use and convenience of purchasers and consumers, and for general information as to the supply and prices of food, and such information tending to facilitate and cheapen food distribution as the department may deem expedient.

Source.—
Farms and
markets
law, § 88.

§ 278. **Limitation of article.** Nothing in this article shall abridge the powers of local boards or departments of health.

Source.—
Farms and
markets
law, § 89.

§ 279. **Establishment of department of markets for county or for county and city.** The board of supervisors of a county not wholly within a city may establish a department of markets for such county, and may appoint a commissioner of public markets to be the head of such department, and fix his compensation, or may provide for the supervision of the department by the board of supervisors or by a designated official or officials of the county, or may, jointly with the authorities of a city in such county who are authorized by this article to establish a department of markets in such city, establish a department of markets for such county and city, and may agree with such authorities upon the manner of appointment and compensation of a commissioner of public markets to be the head of such department, and upon the amount of the compensation of such commissioner and the expense of the establishment and maintenance of such department to be borne by the county and city, respectively. A department of markets so established for a county or for a county and city

shall have all the powers, duties and jurisdiction of a department of markets in a city as prescribed in this article, and all the provisions of this article shall apply thereto in the same manner and to the same effect so far as practicable as a department of markets in a city. A provision of this article referring to the authorities of a city having jurisdiction of a department of markets therein shall, in respect of the department of markets of a county, be deemed to refer to the board of supervisors of the county, in respect of a department of markets for a county and city shall be deemed to refer to the authorities of such city which would have jurisdiction of a department of markets if established therein and the board of supervisors of the county joining in the establishment of such market, and if action is authorized or required, by the provisions of this article, to be taken by the authorities of such a city, such action in respect of such county and city market or department of markets shall be taken jointly by such authorities and by the board of supervisors of the county.

ARTICLE 23

Experiment Stations; Institution Farms

- Section 280. The New York agricultural experiment station.
 281. The director of the New York agricultural experiment station to publish bulletins.
 282. Additional copies of reports of experiment station.
 283. Institutions designated to receive United States moneys.
 284. Examination of food used in state institutions; farms at state institutions.
 285. Almhouse farms.

§ 280. The New York agricultural experiment station. The institution known as the New York agricultural experiment station, located in the city of Geneva, for the purpose of promoting agriculture in its various branches by scientific investigation and experiment, shall continue under the control and management of a board of trustees. Such board of trustees shall be known as the board of control of the New York agricultural experiment station and shall consist of nine members, except as hereinafter provided. The governor and commissioner shall be members of the board by virtue of their offices. The governor shall appoint the other seven members of such board, whose term of office shall be three years, provided, however, that the present members of the board of control shall continue in office until the expiration of the terms to which they were appointed. Such board of control, of which five members shall constitute a quorum, shall hold an annual meeting and such other meetings from time to time as they may deem necessary and shall annually elect a president from their own number, and appoint a secretary and treasurer, to hold their offices during the pleasure of the board. Such board of control shall have general management of the station and shall appoint a director to have oversight and management of the

Source.—
 Agricultural law,
 § 306.

experiments and investigations and other scientific and expert work which shall be deemed necessary to accomplish the objects of said institution, and such board may employ competent and suitable chemists and other experts and persons necessary for carrying on the work of the station, and shall fix the compensation of all persons connected with the work of said station. Said station shall, besides conducting experiments and investigations for the promotion of agricultural science, perform and report to the commissioner such analyses and other expert scientific work as said commissioner may request as necessary for the administration of the provisions of this chapter and the salaries and other expenses incurred by reason of such analyses and other expert scientific service shall be paid from funds provided for said station for the express purpose of aiding in enforcing the provisions of this chapter. Said board of control shall publish or cause to be published, from time to time, bulletins and reports giving the results of the experiments and investigations conducted by said station for the promotion of agriculture in its various branches, together with such other information as may promote the purposes and welfare of said institution. Such board shall have direction of the expenditure of all moneys appropriated to said station; the director shall annually on or before the fifteenth day of December make a full report to the board of the work accomplished by said station, which report, together with a statement of the receipts and expenditures for the year ending the thirtieth day of June then next preceding, and such other statement as may seem desirable, the board shall transmit to the commissioner on or before the first day of January next succeeding, and said report shall constitute part of the annual report of the commissioner. No member of said board shall receive any compensation for his services as such, but shall be paid his necessary traveling expenses and those expenses incurred by him by an actual attendance upon the meetings of such board. The board shall make such rules and regulations as may from time to time become necessary to carry out the objects of the station.

Source.—
Agricultural law,
§ 307.

§ 281. **The director of the New York agricultural experiment station to publish bulletins.** The director of the New York agricultural experiment station is hereby authorized and empowered to publish from time to time bulletins giving information as to results of analyses made by him or under his authority or direction at the New York agricultural experiment station, situate in the city of Geneva and state of New York, of any commodity or substance analyzed in pursuance of or under the provisions of the statutes of this state. He may also publish bulletins containing results of analyses made of such substances or commodities, which analyses were made prior to the passage of this section and which have not heretofore been published.

Source.—
Agricultural law,
§ 281a.

§ 282. **Additional copies of reports of experiment station.** In addition to the number of copies otherwise required by law,

the commissioner may, with the approval of the governor, cause to be printed by the state printer such number of copies of any report of the New York agricultural experiment station at Geneva, heretofore or hereafter made, as he deems sufficient to meet the public demand therefor as provided by this section. The expense of printing such copies shall be paid for out of the appropriation for the legislative printing, at the prevailing rates, upon the audit of the comptroller. Such copies shall be delivered to the commissioner and sold by him to the public at the actual cost thereof as determined by the audit of the comptroller.

§ 283. **Institutions designated to receive United States moneys.** Source.—
Agricultural law,
§ 300.
The Cornell university and the agricultural experiment station at Geneva established by the laws of the state are hereby designated as the institutions within this state, entitled to receive such portion as the legislature shall determine of the benefits of the act of the congress of the United States, approved March second, eighteen hundred and eighty-seven, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July second, eighteen hundred and sixty-two, and of the acts supplementary thereto." Such benefits of such acts which this state is authorized thereby to apply to any college, institution or agricultural experiment station within this state, are applied to the agricultural experiment station established under the direction of Cornell university and the agricultural experiment station at Geneva, and this state consents that such appropriation, money or benefits to or for the use of this state, or of any institution within this state, payable under or in pursuance of such act of congress, shall be paid nine-tenths thereof to the treasurer of Cornell university, the officer designated to receive the same, and one-tenth thereof to the officers of the agricultural experiment station at Geneva designated to receive the same, to be expended as provided in such act of congress. Such experiment station shall, annually, on or before the first day of December, make, to the commissioner, a full and detailed report of its operations, including a statement of its receipts and expenditures for the year ending with the thirtieth day of September then next preceding. Such experiment station may, with the consent and approval of the commissioner, appoint horticultural experts to assist such experiment station, in the fifth judicial department, in conducting investigations and experiments in horticulture; in discovering and remedying the diseases of plants, vines and fruit trees; in ascertaining the best means of fertilizing vineyard, fruit and garden plantations, and of making orchards, vineyards and gardens prolific; in disseminating horticultural knowledge by means of lectures or otherwise; and in preparing and printing for free distribution, the results of such investigations and experiments, and such other information as may be deemed desirable and profitable in promoting the horticultural interests of the state. Such experts

may be removed by such experiment station, in its discretion, and may be paid for their services such sums as it may deem reasonable and proper, and as shall be approved by the commissioner. All of such work by such experiment station and by such experts shall be under the general supervision and direction of the commissioner. The treasurer of this state shall keep the account of all moneys hereafter received by him in pursuance of such act of congress, in a separate fund, to the credit of the Cornell university and the agricultural experiment station at Geneva, in the proportion stated in this section, and shall pay all such moneys immediately upon receipt thereof by him to the officers respectively designated therein to receive the same, upon the warrant of the comptroller, issued upon the order of the trustees of Cornell university and the board of control of the agricultural experiment station at Geneva, in pursuance of said act of congress, which said moneys are hereby appropriated for the purposes herein stated.

Source.—
Agricultural law,
§ 12.

§ 284. **Examination of food used in state institutions; farms at state institutions.** The commissioner may examine food or food products produced or secured for use in the state institutions and make or cause to be made such other examinations as he may deem wise or as the facts seem to necessitate and warrant relative to such food and food products and relative to the agricultural methods at all farms connected with the state hospitals reporting to the state hospital commission, at all farms connected with state charitable institutions reporting to the fiscal supervisor of state charities, at all farms connected with state prisons reporting to the superintendent of prisons, and report the results of such examinations and make recommendations thereupon as follows: to the fiscal supervisor relative to farms connected with the state charitable institutions reporting to the fiscal supervisor, to the state hospital commission relative to farms reporting to that commission, and to the superintendent of state prisons relative to farms reporting to that official. For the purpose of assisting the commissioner in the performance of duties authorized by this section, the fiscal supervisor and the superintendent of prisons and the state hospital commission shall secure and transmit to the commissioner such available appropriate information and render such other assistance as the commissioner may call for.

The commissioner shall give such directions as in his judgment are deemed best to each superintendent, warden, or other person in charge of the several farms connected with the state institutions above mentioned as to proper care and development of farm lands and as to kind, production and disposition of crops, stock and produce and all other matters connected with the management of such farms; which directions when issued shall be made effective by such superintendent, warden or other person in charge of such farms.

No land shall hereafter be purchased by the state for farm purposes connected with any of the above institutions without the approval and appraisal of the commissioner.

§ 285. **Almshouse farms.** The commissioner may make investigation and examination as to the farm lands at the almshouse farms of the various counties, the purposes to which they are best adapted and the crops which can most profitably be raised thereon, and make report on the same to the boards of supervisors of the said counties.

Source.—
Agricultural law,
§ 13a, in
part.

ARTICLE 24

Agricultural Societies and Associations.

Section 286. Receipt and apportionment of moneys for the promotion of agriculture.

287. Distribution of moneys appropriated for certain agricultural societies.

288. Annual report to the commissioner and state society.

289. Lease of grounds of agricultural societies and corporations.

290. Association of farmers; powers of.

291. County judge may appoint policemen or constables.

§ 286. **Receipt and apportionment of moneys for the promotion of agriculture.** All the moneys already appropriated, or hereafter appropriated, for the promotion of agriculture in any one year, and all the revenues which have been, or shall be received by the comptroller, and all the moneys received by him from the tax collected from racing associations pursuant to article twenty of the membership corporations law, or hereafter otherwise collected from racing associations, corporations or clubs, shall constitute a fund, which shall be annually disbursed on behalf of the state for the promotion of agriculture and domestic arts, for the promotion of education along agricultural lines and for the promotion of the improvement of the breeding of cattle, sheep, horses and other domestic animals at the various fairs throughout the state, and shall be apportioned and distributed as hereinafter prescribed, among all the various county agricultural societies, the American institute of the city of New York, and among the other various town or other agricultural societies, or agricultural fair associations, or agricultural expositions, or agricultural clubs which have received moneys from the state and disbursed moneys for the state for such promotion, during either one of the three years, nineteen hundred and five, nineteen hundred and six, or nineteen hundred and seven, under and by virtue of section eighty-eight or eighty-nine of the agricultural law as it then existed. Such apportionment and distribution shall be made by the commissioner in the following manner: Of such moneys already appropriated, or hereafter appropriated, there shall be apportioned and distributed to such county agricultural societies, American institute of the city of New York, and such various town or other agricultural societies, or agricultural clubs, or agricultural fair associations, or agricultural expositions, hereinbefore mentioned, in proportion to the

Source.—
Agricultural law,
§ 210.

actual premiums paid during the previous year by such agricultural societies, agricultural fair associations, agricultural expositions, agricultural clubs, and the American institute of the city of New York, exclusive of the premiums paid for trials and tests of speed, skill and endurance of man or beast. No such American institute of the city of New York, or such county agricultural society, or such town or other agricultural society, or such agricultural fair association, or such agricultural exposition, or such agricultural club shall receive any more moneys under the provisions of this article in any one year, than it actually paid out in premiums the next preceding year, exclusive of the premiums paid for trials, or tests of speed, skill or endurance of man or beast, and in no event shall any such American institute of the city of New York, or such county agricultural society, or such town or other agricultural society, or such agricultural fair association, or such agricultural exposition, or such agricultural club receive under the provisions of this article, in any one year for premiums hereafter to be paid by any society, association, club or exposition, any sums of money exceeding four thousand dollars. Any such county agricultural society, town or other agricultural society, or agricultural club or fair association, or agricultural exposition, organized under the laws of the state of New York, which shall fail or neglect to hold an annual fair, and file its annual report as provided by this article, with the commissioner, as herein provided, for two consecutive years, shall forfeit all of its chartered rights, including any privileges or moneys it might thereafter otherwise be entitled to under the provisions of this article. Except that where the lands or property of any such agricultural society or association have been or may hereafter be taken or appropriated by the state of New York for use in connection with the construction of the barge canal, no such society or association whose lands or property has been or may be so taken or appropriated shall forfeit any of its rights or privileges, or any of the moneys it might otherwise be entitled to under the provisions of this article, unless such society or association shall fail or neglect to hold an annual fair and file its annual report as provided by this article for five consecutive years. All agricultural clubs, societies, agricultural fair associations, agricultural expositions, or the American institute of the city of New York, entitled to receive any portion of the moneys appropriated by the state, must hereafter on or before the fifteenth day of December in each year, file a statement, duly verified by the president and treasurer or secretary, showing the amount of premiums paid at the last annual fair, exclusive of premiums paid for trials or tests of speed, skill or endurance of man or beast, which statement together with vouchers for moneys paid as premiums shall be filed in the office of the commissioner, otherwise such society, fair association, exposition, club, or the American institute of the city of New York, shall forfeit its rights to participate in the distribution of such moneys for premiums paid for such year. No other agricultural society, now

or hereafter organized which is not entitled to receive moneys under this section, except a county agricultural society, shall be entitled to receive any moneys under the provisions of this article, until it shall have first filed annual reports in the office of the commissioner, as hereinbefore provided, and paid in actual cash premiums for agricultural, mechanical and domestic products at least four thousand five hundred dollars for one year or at least fifteen hundred dollars a year for three consecutive years, exclusive of the premiums paid for trials, or tests of speed, skill or endurance of man or beast. When any such other agricultural society has filed such annual reports and paid such premiums for one year or three successive years as herein provided and to the satisfaction of the commissioner, then the said commissioner may thereafter allow such society to draw moneys under and by virtue of the provisions of this article. All such county agricultural societies, town or other agricultural societies, or fair associations, or agricultural expositions organized under the laws of the state of New York which have received moneys from the state for premiums paid for the promotion of agriculture and domestic arts, for the promotion of education along agricultural lines, or for the promotion of the improvement of the breeding of cattle, sheep, horses and other domestic animals, shall be deemed as agents for the state in disbursing such moneys and shall be entitled to be reimbursed for such moneys paid as provided in this article, from an annual appropriation which shall not be less than two hundred and fifty thousand dollars. Any agricultural society, agricultural club or agricultural exposition which shall knowingly permit any immoral, lewd, obscene or indecent show or exhibition, use, or knowingly permit the use of, any gambling device, device, instrument or contrivance in the operation of which bets are laid or wagers made, wheel of fortune, or the playing or carrying on of any game of chance, upon the grounds used by it for, or during, an annual meeting, fair or exhibition, shall thereupon forfeit its rights to any moneys it would or might be entitled to receive under the provisions of this article; and it shall be the duty of the president and secretary or treasurer of every agricultural society, agricultural club, or agricultural exposition entitled to receive money under the provisions of this article, to certify, in its annual report to the commissioner, executed under oath, on or before the fifteenth day of December, in each year, that at the last annual meeting, fair or exhibition held by or under the direction of such society, club or exposition, it did not knowingly permit any immoral, lewd, obscene or indecent show or exhibition by whatever name known, or use or knowingly permit the use of, any gambling device, device, instrument or contrivance in the operation of which bets were laid, or wagers made, any wheel of fortune, or the playing or carrying on of any game of chance, upon the grounds used by it for, or during such last annual meeting, fair or exhibition, which report shall be filed in the office of the commissioner. If the president and secretary or treasurer of any agricultural society, agricultural club or agricultural exposition, entitled to receive

moneys under the provisions of this article, shall neglect or refuse to make and file such certificates, such society, club or exposition shall thereupon be deemed to have forfeited all its rights to any moneys it might otherwise be entitled to receive under this article for such year, but this shall not be construed to prohibit horse racing, or tests or trials of skill.

Source.—
Agricultural law,
§ 311.

§ 287. **Distribution of moneys appropriated for certain agricultural societies.** Of all moneys appropriated in the regular appropriation bill during any one year by the legislature for distribution among the agricultural societies by the commissioner, the said commissioner may distribute to the agricultural societies entitled to partake thereof an amount to each one, on or after the first day of July, in said year from the moneys due said society not to exceed fifty per centum of the amount of premiums paid by the said society at its annual fair held during said year. Any balance or balances shall be distributed as provided by the last preceding section.

Source.—
Agricultural law,
§ 312.

§ 288. **Annual report to the commissioner and state society.** The president and treasurer of any agricultural society which receives any money of the state or acts as the agent of the state in the distribution of money of the state as premiums, shall annually before the fifteenth day of December, transmit to the commissioner a detailed account of the expenditure or distribution of all such moneys as shall have come into their hands during the preceding year, and of such other moneys as they may have received from voluntary contributions for distribution as premiums, stating to whom, and for what purpose paid, with the vouchers therefor. The presidents of the several county societies and of the American institute shall annually transmit in the month of December, to the executive committee of the New York state agricultural society, all such reports or returns as they are required to demand from applicants, for premiums, together with an abstract of their proceedings during the year, which shall be examined by such executive committee, and they shall condense, arrange and report the same, with a statement of their own proceedings, to the legislature on or before the first day of March in each year.

Source.—
Agricultural law,
§ 313.

§ 289. **Lease of grounds of agricultural societies and corporations.** Any agricultural society or corporation, owning or possessing grounds in a county of this state having a population of more than three hundred thousand and less than six hundred thousand may lease such grounds for any lawful purpose except running races not inconsistent with the use thereof for the purposes of the society or corporation, for such time or times as said grounds may not be needed by any such agricultural society or corporation for its own purposes.

Source.—
Agricultural law,
§ 314.

§ 290. **Association of farmers; powers of.** Any association of farmers, residing in any neighborhood, town or county in this state, now, or hereafter to be organized, and acting under a constitution and by-laws adopted by themselves for their guidance, which shall be filed in the clerk's office of such town or county and which are not inconsistent with the laws of this state, is

hereby authorized to lease and maintain grounds and structures for the exhibition and sale of the products of their farms or their skill, and for the instruction and recreation of its members and visitors. Any such association shall have authority to let, for rent, locations on their leased grounds to shopmen and persons wishing to furnish suitable refreshments for victualing members and visitors; to license peddlers to sell on their grounds articles of merchandise, not forbidden to be sold by any law of this state without license from the state; and in the name of such association and upon the action and direction of its officers, to sue for and collect the stipulated sums of such rentals and licenses, and to enforce the observance of its rules and regulations by the several members of its association. And such association is hereby empowered to issue certificates of indebtedness in amounts of five dollars each, providing that the whole amount shall not exceed the sum of one thousand dollars, which they may sell at a price not below the par value thereof, for the purpose of raising money for the erection of buildings, or for such other improvements as may be deemed necessary by a majority of the members of such association.

§ 291. **County judge may appoint policemen or constables.** The county judge of any county in this state wherein such a voluntary association of farmers may exist is hereby authorized, upon the nomination of the presiding officer, or the executive committee of such association, to appoint any number of reputable persons, citizens of such neighborhood, town or county, as special policemen or constables, who shall have authority to preserve the peace at any meeting of such association on its grounds or in the neighborhood thereof; and to protect the property of such association or of any of its members, visitors, lessees or licensees while on such grounds or on the way to or from such grounds. But such special policemen or constables shall have no authority, from such appointment, to act as policemen or constables, other than as herein authorized, except that they may arrest any person committing unlawful depredation on such grounds, or unlawfully injuring persons or property thereon, or on the way to or from such grounds, or otherwise committing breaches of the peace, and may take such persons so offending, when arrested, before some proper magistrate, to be dealt with according to law.

Source.—
Agricultural law,
§ 317.

ARTICLE 25

Saving Clauses; Laws Repealed; When to Take Effect.

Section 292. Application of provisions of other laws and of documents.

293. Existing rules and regulations continued.

294. Pending actions or proceedings.

295. Existing rights preserved.

296. Laws repealed.

297. When to take effect.

Source.—
Farms and
markets
law, § 101.

§ 292. **Application of provisions of other laws and of documents.** Wherever the terms department of agriculture, commissioner of agriculture, department of foods and markets, department of weights and measures, department of health, commissioner of agriculture, commissioner of foods and markets, state superintendent of weights and measures, or state commissioner of health, shall occur in any law, contract or document, such terms shall be deemed to mean and refer to the department of farms and markets, and the commissioner of farms and markets respectively, so far as such law, contract or document pertains to matters which are within the jurisdiction of such department under the provisions of this chapter. Whenever, by the education law or other statute, the commissioner of agriculture is made a member by virtue of his office of the board of managers or trustees or other governing body of a state institution, the term commissioner of agriculture shall be deemed to mean the commissioner of farms and markets.

Source.—
Farms and
markets
law, § 102.

§ 293. **Existing rules and regulations continued.** The rules and regulations of the commissioner of farms and markets, commissioner of agriculture, the commissioner of foods and markets, the state commissioner of health or the state superintendent of weights and measures, pertaining to any matter within the jurisdiction of the department of farms and markets under this chapter, adopted in pursuance of any law, the duty of enforcing which is imposed upon the department of farms and markets as provided herein, shall continue in full force and effect until they are modified, amended or repealed as provided by this chapter.

Source.—
Farms and
markets
law, § 103.

§ 294. **Pending actions or proceedings.** This chapter shall not affect pending actions or proceedings brought by or against the department of farms and markets, the commissioner of farms and markets, the department of agriculture, the commissioner of agriculture, the department of foods and markets, the commissioner of foods and markets, the state superintendent of weights and measures, the state commissioner of health, or any other officer, person or corporation, or by or in behalf of the people of the state, under or in pursuance of any of the provisions of the laws which are to be enforced or carried into effect under the provisions of this chapter by the department of farms and markets, but the same may be prosecuted or defended in the same manner and for the same purpose by the department of farms and markets, or by the proper officer or party, under the provisions of this chapter. Any investigation, examination or proceeding undertaken, commenced or instituted by the department of farms and markets, the commissioner of farms and markets, the department of agriculture, the commissioner of agriculture, the department of foods and markets, the commissioner of foods and markets, the state superintendent of weights and measures, the state commissioner of health, or any other officer, under the provisions of the laws which are to be enforced or carried into effect as provided in this chapter by the department of farms and markets, may be conducted or continued to a final determina-

tion by the department of farms and markets, commissioner of farms and markets, or other proper officer of such department, in the same manner and under the same terms and conditions as though this chapter had not been passed.

§ 295. **Existing rights preserved.** The provisions of this act, or the repeal of any provisions of any statute thereby shall not effect or impair any act done or right accrued or acquired, or any liability, penalty, forfeiture or punishment incurred or imposed or any limitation or defense accrued or established, prior to its enactment, but the same may be asserted, enforced, prosecuted or inflicted in the same manner and to the same extent as if this act had not been passed. Source.—
New.

§ 296. **Laws repealed.** Chapter nine of the laws of nineteen hundred and nine, entitled "An act in relation to agriculture, constituting chapter one of the consolidated laws,"; chapter eight hundred and two of the laws of nineteen hundred and seventeen, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws,"; articles two, two-a, thirteen, fourteen, fifteen, and twenty-five-a, and sections three hundred and ninety, three hundred and ninety-two, three hundred and ninety-three, three hundred and ninety-four, three hundred and ninety-five, and three hundred and ninety-seven, of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws,"; and section forty-three, forty-six, forty-seven, forty-eight, and forty-nine,⁴² of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws,"; and all acts and parts of acts amendatory thereof or supplemental thereto, are hereby repealed. L. 1909,
ch. 9;
L. 1917,
ch. 803;
L. 1909,
ch. 28,
arts. 2, 2a,
13-15, 25a,
§§ 330, 332-
336, 337;
L. 1909,
ch. 49,
§§ 43, 44-
49 repealed.

§ 297. **When to take effect.** This chapter shall take effect April first, nineteen hundred and twenty-two.

CHAPTER 49

AN ACT for the relief of the town of Northampton, in the county of Fulton.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The supervisor of the town of Northampton, in the county of Fulton, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen, and nineteen hundred and twenty upon lands of residents, nonresidents Account of
unpaid
taxes for
1915-1920.

⁴² L. 1909, ch. 49, §§ 43, 46-49 are again repealed by L. 1922, ch. 335, post.

To be
added to
assess-
ment roll
for 1922.

Reassess-
ment and
collection.

and corporations in said town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment roll of the said town of Northampton for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them thereon as relieved taxes of such year.

§ 2. The board of supervisors of Fulton county shall cause to be reassessed and levy upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

§ 5. This act shall take effect immediately.

CHAPTER 50

AN ACT for the relief of the town of Mayfield, in the county of Fulton.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Account of
unpaid
taxes for
1915-1920.

To be added
to assess-
ment-roll
for 1922.

Reassess-
ment and
collection.

Section 1. The supervisor of the town of Mayfield, in the county of Fulton, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen, and nineteen hundred and twenty upon lands of residents, nonresidents and corporations in said town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment-roll of the said town of Mayfield for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them thereon as relieved taxes of such year.

§ 2. The board of supervisors of Fulton county shall cause to be reassessed and levy upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

§ 3. This act shall take effect immediately.

CHAPTER 51

AN ACT to amend the highway law, in relation to county aid for the construction, improvement and maintenance of connecting highways in villages and cities in certain counties.

Became a law February 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section three hundred and twenty-c, to read as follows:

§ 320-c. County aid for the construction, improvement and maintenance of connecting highways in villages and cities in certain counties. Wherever in this article it is provided that the county may aid in the construction and improvement of a highway or highways, the highway or highways referred to shall in a county having a population of more than three hundred thousand according to the last federal or state census or enumeration, adjoining a city of the first class having a population of one million and upward, include in addition to the highways already mentioned, connecting highways in villages and cities and the municipalities to be aided shall accordingly include such cities and villages and all the provisions pertaining to the construction and improvement of such highways with such aid including those providing for the apportionment of the cost thereof, the manner and method of paying for same, the issuance of certificates of indebtedness or bonds for same and for the maintaining of same shall apply to such cities and villages in the same manner as if such cities and villages were mentioned in said provisions. Notwithstanding any provision to the contrary any motor vehicle moneys received by such county under section two hundred and ninety-one may be used in such construction, but moneys received as state aid under section three hundred and twenty-b shall not be so used.

§ 2. This act shall take effect immediately.

CHAPTER 52

AN ACT to authorize the board of trustees of the village of Rye to issue bonds for the purpose of paying certain indebtedness.

Became a law February 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of trustees of the village of Rye is authorized to issue negotiable bonds of the village in the principal

Bond issue authorized.

Bonds;
interest,
maturity,
sale, etc.

Tax for
payment.

amount of eighty-five hundred dollars for the purpose of paying indebtedness of said village incurred for the grading and paving of Ridge street in said village. Said bonds shall bear interest not exceeding six per centum per annum and shall be payable in seventeen equal annual instalments of five hundred dollars each commencing one year from the date of said bonds. Said bonds shall be sold at public sale for not less than par, and shall be in such form and executed in such manner as the board of trustees may by resolution provide, and shall contain a recital that they are issued pursuant to the village law, which recital shall be conclusive evidence of their validity and of the regularity of their issue.

§ 2. There shall be raised annually by tax upon all the taxable property in the village of Rye a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

§ 3. This act shall take effect immediately.

CHAPTER 53

AN ACT making an appropriation to acquire lands for state park purposes within the forest preserve counties to carry out the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen, and providing the methods for such acquisition.

Became a law February 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Appropriation.

Section 1. The sum of two million five hundred thousand dollars (\$2,500,000) is hereby appropriated out of moneys realized from the sale of bonds issued in accordance with the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen, and chapters three hundred and fifty-eight and five hundred and forty-five of the laws of nineteen hundred and twenty-one, to acquire lands pursuant to the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen, for state park purposes within the forest preserve counties, which lands if owned by the state on the seventh day of November, nineteen hundred and sixteen, under the existing law would be part of the forest preserve.

Lands, how
acquired.

§ 2. Any such lands may be acquired under the direction of the conservation commission by purchase, by and with the advice and consent of the commissioners of the land office, without other approval, or they may be acquired under the direction of the conservation commission by entry and appropriation in the manner provided by section fifty-nine of the conservation law, as amended, relating to lands within the Adirondack or Catskill parks or adjacent thereto. All the provisions of such section shall apply to lands to be acquired under this act and the acquisition thereof and to compensation or damages therefor, excepting as follows:

(1) the entry and appropriation shall be with the advice and consent of the commissioners of the land office instead of the approval of the governor, and (2) such consent, in writing, shall be filed with the county clerk of each county in which lands proposed to be taken are situated.

§ 3. The moneys appropriated by this act shall be available for the payment of the contract price of such lands as may be acquired hereunder by purchase, or for the payment of judgments of the court of claims in the case of lands acquired hereunder by entry and appropriation, or for the expense of inspection of lands offered for such purchase, or so purchased or otherwise acquired, or for the expense of the examination or approval of the title to or conveyance of such lands, or for any other expense necessarily incurred as an incident to the acquisition of lands pursuant to chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen, and acts amendatory thereof or supplemental thereto; provided, however, that no moneys shall be paid out for any such purpose, other than to pay judgments of the court of claims, except upon the warrant and audit of the comptroller and only after submission to him of vouchers therefor approved by the conservation commission and by the commissioners of the land office, accompanied, in the case of payments of the purchase price of lands acquired by contract, with the certificate of the attorney-general approving the title to and the form of the conveyance of the lands purchased. Judgments of the court of claims under section fifty-nine of the conservation law shall be paid as therein provided, except that no judgment of the court of claims shall be paid without the certificate of the attorney-general approving the title to the lands for the appropriation of which such judgment was rendered.

Moneys appropriated, for what available.

Moneys, how paid out.

§ 4. The term "lands," as used in this act, includes the improvements thereon, if any. All land acquired under this act shall be for the use of all the people.

Lands defined; to be for use of people.

§ 5. This act shall take effect immediately.

CHAPTER 54

AN ACT making an appropriation for the department of farms and markets for expenses incurred in the enforcement of article five of the agricultural law.

Became a law February 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The following amounts, or so much thereof as may be needed, are hereby appropriated to the department of farms and markets, payable for the purposes herein specified:

1. For the payment of indemnities for tuberculous animals killed:

(a) Up to the beginning of the present fiscal year July 1, 1921.....	\$870,432 08
(b) From July 1, 1921.....	407,955 53
2. For the payment of interest upon the above claims to the time of payment.....	55,000 00
3. For compensation of per diem veterina- rians prior to July 1, 1921.....	3,040 00
§ 2. This act shall take effect immediately.	

CHAPTER 55

AN ACT to authorize the holding of a special election in the village of Naples, Ontario county, in the months of February or March, for the submission of a proposition relating to the improvement of a road in the village.

Became a law February 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding the provisions of section fifty-six or any other provision of the village law prohibiting the holding of a special village election in the months of February or March, a special village election may be called and held in the village of Naples, Ontario county, in either of such months, in the year nineteen hundred and twenty-two, in the manner provided in section fifty-six of such law, for the submission of a proposition relating to the construction of a cement road from Main street to the Lehigh Valley railroad station in such village, and for the appropriation of money and creation of a village debt therefor. Otherwise, the provisions of the village law shall apply to the submission of such a proposition and for the taking, canvassing and certification of the vote thereat.

§ 2. This act shall take effect immediately.

CHAPTER 56

AN ACT to amend chapter six hundred and thirty-seven of the laws of eighteen hundred and seventy-one, entitled "An act to provide for the appointment of police commissioners in the village of Green Island, Albany county, and to establish a police force therein," as amended by chapter four hundred and seven of the laws of eighteen hundred and seventy-two, and as amended by chapter one hundred and sixty-two of the laws of nineteen hundred and fifteen, in relation to the expenses of the police department thereof.

Became a law February 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen of chapter six hundred and thirty-seven of the laws of eighteen hundred and seventy-one, entitled

"An act to provide for the appointment of police commissioners in the village of Green Island, Albany county, and to establish a police force therein," as amended by section two of chapter four hundred and seven of the laws of eighteen hundred and seventy-two and as amended by section two of chapter one hundred and sixty-two of the laws of nineteen hundred and fifteen, is hereby amended so as to read as follows:

§ 15. The board of trustees of the village of Green Island shall raise by tax, annually, at the time and in the same manner that other village taxes are levied and collected, all funds necessary to carry out the provisions of this act, and the treasurer of said village shall pay the salary of the policemen monthly as it shall become due, on warrant of the board of police. The contingent expenses of the police establishment for office furniture, fuel, light, stationery, printing, advertising, policemen's badges and batons, shall be paid by the treasurer of said village upon warrant of the board of police. All warrants of said board must be authorized by a vote of the board and be signed by the chairman and secretary thereof. The said board of trustees are hereby authorized to borrow a sufficient sum of money to pay the said increased expenses of police provided by this act until the levying and collecting the first village tax hereafter, which sum shall be included in said first village tax together with the estimated expenses for the succeeding year. The entire expenses of the police department hereby created shall not exceed six thousand dollars¹ per annum, except by vote of the taxable inhabitants.

§ 2. This act shall take effect immediately.

CHAPTER 57

AN ACT to provide for the paving and improvement of the streets in the village of Green Island, Albany county, and to provide for the method and means of paying therefor.

Became a law February 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within twenty days after the passage of this act the board of trustees of the village of Green Island shall appoint three freeholders of said village to be commissioners, who shall constitute a commission to be known as the public improvement commission of the village of Green Island. If such appointments are not made within twenty days the president of the said village shall have full power to appoint said commissioners.

§ 2. The said commissioners so appointed shall hold office by virtue of said appointment for a period of three, four and five years respectively and their successors shall hold office for a period of five years, or such shorter term as may be fixed by the

¹Formerly "thirty-five hundred dollars."

board of trustees. When a vacancy occurs in the office of commissioner by reason of death, resignation, disqualification or removal for cause, the same shall be filled in the same manner as the said commissioners were originally appointed. Each commissioner shall receive for his services as such commissioner a sum to be fixed annually by the board of trustees not in excess of two hundred dollars a year.

Oath of
office.

Office
room.

Organiza-
tion.

Clerk.

§ 3. Each commissioner, before entering upon the duties of his office, shall take and subscribe an oath to honestly and faithfully discharge the duties conferred upon him, and file the oath with the clerk of the village. The board of trustees of the village shall furnish said commission with office room. Within thirty days after their appointment the said commissioners shall meet in the village of Green Island and organize the said commission. Said commission may appoint a person not a member of said commission, as clerk of said public improvement commission, and shall prescribe his duties and fix his salary not to exceed two hundred dollars a year.

Quorum.

Meetings.

Annual
report.

General
powers and
duties.

Commis-
sioners and
employees
not to be
interested
in furnish-
ing
material.

Streets to
be paved.

Grade and
curb lines
of streets
to be paved
to be es-
tablished;
maps.

§ 4. A meeting of the majority of said commissioners shall be necessary for the transaction of any business.

§ 5. All the meetings of said commission shall be public and the secretary shall duly record all proceedings of their meetings. It shall be the duty of the commission to make a full and complete report to the board of trustees of the village of Green Island, each year, setting out the result of their labors.

§ 6. The said commission shall have authority to arrange for and provide competent engineering, superintendence and inspection of the work herein provided for, and to employ counsel whenever the same shall be necessary, and to take all necessary legal proceedings to carry into effect all the provisions of this act. It shall be a misdemeanor, punishable by fine or imprisonment, or both, for any member of said commission, or for any employee, engineer, superintendent or inspector, appointed or employed by them, to be in any way or any manner interested, directly or indirectly, in furnishing any material for the work herein provided for.

§ 7. The said commission is hereby empowered, authorized and directed to pave or cause to be paved, and to curb such streets within the corporate limits of the village of Green Island as may from time to time be authorized by the board of trustees and to properly provide for curbing of suitable size and character, to be placed or replaced on both sides of said streets or parts of streets designated to be paved.

§ 8. As soon as practicable, after authorized by the board of trustees, the said commission shall establish a grade line and curb line for such streets and parts of streets to be paved, and shall cause a survey, map and profile thereof to be made and signed by the said commission, or a majority of them, and duplicates thereof shall be filed in the clerk's office of Albany county, and in the clerk's office of the village of Green Island.

Such maps shall also show the house lines of said streets, the lot lines and frontage, and the names of each owner of real property abutting said streets, or parts of streets, to be paved, known to said commission; and if unknown, the lots shall be marked unknown; and also the tracks of any street surface railroad company occupying any portion of said streets, and the number of square feet thereof occupied by such railroad, including in such quantity the space between its tracks, the rails of its tracks, and two feet in width outside of its tracks.

Maps to show abutting property and railroad tracks.

§ 9. Said public improvement commission shall have power and authority:

Powers of commission relative to grades and curbing.

First. To modify the grades of the streets specified as those to be paved, and to establish and re-establish grades for the same, and to determine the location of the curbstones and curbing thereon.

Second. To cause the streets, parts of streets and public ground so designated, to be paved or repaved; and to construct any and all curbing at the curb line which it may deem necessary for the proper paving or repaving of said streets so designated; and to lay and relay any and all abutting crosswalks on the intersecting streets.

Paving.

Third. To appropriate and use for the purpose of the proposed improvement all earth, stone and other things obtained in the prosecution of said work, and to dispose of such as shall not be required for that purpose in such manner as they may deem proper.

Appropriation of earth, stone, etc.

Fourth. To advertise for proposals and contract in the name of the village of Green Island, for any and all of the work herein prescribed, to be performed at such prices and upon such terms and considerations as the said commission may deem proper, and to require such security from bidders and contractors as said commission may deem necessary.

Contracting for work.

Fifth. To make and enforce such rules, regulations and restrictions as they deem proper, from time to time, for the government of their body and the guidance and direction of the contractors, agents and employees engaged in any of the improvements done under this act.

Rules for contractors and employees.

Sixth. To have the full and exclusive power and authority to audit all claims against the village of Green Island, contracted by them under this act and to transmit the same to the board of trustees of the village of Green Island, for payment.

Audit of claims.

Seventh. To have the full and exclusive power of the board of trustees of the said village in and over the streets so designated to be paved and repaved during the progress of the work.

Powers of village trustees.

Eighth. In case any building or lot on any of said streets to be paved under the provisions of this act shall not have water and sewer facilities with the present water and sewer system in use in said village it shall be the duty of the said commission to furnish and extend lateral pipes and sewer connections of proper size and such sewer and water mains in said streets to the inside of the curb line of each lot or tract of land on the streets so to be paved;

Water and sewer connections.

the expense of such lateral pipes and sewer shall be a charge and lien upon the respective lots and tracts of land in front of which they shall be laid, and the amount thereof be added to the assessments hereinafter provided for the expense of paving said streets and collected therewith. For the purposes of this subdivision the said commission, and its employees are hereby authorized to enter any building on said streets so to be paved and make such examinations thereof as they deem necessary.

Construction of cesspools.

Ninth. To construct such cesspools on the streets herein designated to be paved and to connect them with the present sewer system of said village as they may deem necessary.

Removal of obstructions.

Tenth. To remove any and all obstructions from the streets which in their judgment in any way or manner is detrimental to the work and improvements herein authorized.

Grading of sidewalks.

Eleventh. To compel the owner or owners of premises adjoining the street or streets to be paved under this act to grade and regrade the sidewalks in accordance with the grade prescribed by the said commission and in case the same shall not be done within ten days after notice to the owner or occupant the work shall be done under the direction of the said commissioners and the expense shall be a charge and lien upon the respective lots in front of which they shall be laid, and the amount thereof shall be added to the assessment and collected therewith.

Relaying of pipes, tracks, etc.

Twelfth. To require all corporations, firms and persons as may have occasion to use said streets to be paved, or which have any interest therein, to lay and relay so much of such underground or surface pipes, mains, tracks, conduits, subways, shutoff boxes, drains and manholes, in such streets so to be paved, which shall be found to be worn, rusted, decayed, defective or unserviceable, and not to properly meet the purpose for which it was intended, or which may be dangerous to said pavement or to abutting property, as said commission shall deem proper to be laid between the curb lines of such streets, prior to the permanent improvement of such street. In case any such work, so required, shall not be done in the time fixed by said commission, the commission shall cause the same to be done, and assess the cost thereof against the corporation, firm or individuals owning or using the same, and against the franchise therefor, and the cost thereof shall be a lien enforceable in the manner as herein provided for the collection of the several assessments; and shall be a valid counterclaim on the part of the village of Green Island to reduce any indebtedness of the village to such corporation, firm or individuals.

Plans and specifications.

§ 10. The said commission shall cause plans and specifications of work provided for to be prepared and placed in some convenient place in said village for public inspection for a period of at least two weeks before the same are finally accepted, and adopted by them, and before advertising for bids for the construction of the same. In preparing such plans and specifications the said commission shall provide:

First. For paving and repaving the streets designated to be paved, and so much in addition thereto of such cross and inter-

secting streets as is to be paved under the provisions of this act.

Second. For the placing of new curbstones of such size and character as they shall determine on each side of such streets and parts of streets to be paved.

Third. For the proper laying of such pavement with concrete foundation.

Fourth. For the grade of such new pavement as far as practicable to be such that no surface water from adjoining streets shall flow on to the streets to be paved, and so that all such water shall be emptied into cesspools connected with the present sewer system of said village.

§ 11. Specifications and contract for paving may provide that all persons submitting bids or proposals shall agree to keep and maintain the paving in good repair for a certain term or period.

§ 12. After said commission shall have finally adopted plans and specifications for the work and improvement authorized, they shall publish in at least two newspapers, one of which shall be in said county, a notice, specifying the time and place where said plans and specifications can be examined and the date, hour and place, not less than two weeks after the first publication, when said commission will receive sealed proposals for the construction of such work, which proposals must be accompanied by the written consent of two sureties, or of a surety company, to sign, execute and deliver to the village of Green Island such bond as may be required for the faithful performance of such contract. Upon the day mentioned in the notice or upon such subsequent day as said commission shall adjourn to for that purpose, the president of the commission, or in his absence, the presiding officer, shall in the presence of such commission open such bids or proposals. The said commission may then, by a majority vote, taken by ayes and nays, award the contract for such work, or may adjourn their proceedings from time to time before awarding the same. The right is reserved, however, to said commission to reject any or all of such bids or proposals when in their judgment it is for the best interest of the village to do so. The party whose bid is accepted shall thereupon be required to enter into a written contract with the village of Green Island for the construction of such work, in such form and with such stipulations, limitations, requirements, covenants and conditions as the said commission shall direct, and to deliver to the village of Green Island a bond for the faithful performance thereof, in a penalty to be fixed by said commission, not less than one-half of the contract price, duly executed and acknowledged by two or more sufficient sureties, or by some solvent surety company doing business in this state approved by said commission.

§ 13. After the total cost and expenses of the work herein authorized, including the curbing, shall be ascertained by said commission, the expense thereof shall be apportioned and assessed by them as follows:

First. Against any railroad company occupying any portion of said streets so to be paved, all the expense of paving that por-

Provision for maintaining pavement for certain period.

Publication of notice for proposals.

Opening of proposals.

Awarding of contracts.

Contracts.

Contractors' bonds.

Apportionment and assessment of cost.

tion of said streets occupied by its tracks, the rails of its tracks, and two feet in width outside of its tracks; provided said railroad company does not pave the said portion of said streets, when so required.

Second. Against the village of Green Island, all the expense of street and alley intersections, except such portions as are required to be paved as first above provided, and also the entire expense of cesspools and the work of connecting the same with the sewer system of the village.

Third. Three-fifths of the balance thereof against the village of Green Island.

Fourth. And the balance thereof against the lots or tracts of land bounded on that portion of the street so to be paved, the amount of such assessment against each lot to be determined by the frontage of said lot, on the street to be paved. No adjoining or abutting property shall be exempt from assessment under this act.

Assessment of
persons or
corporations.

§ 14. The said commission shall make a list of said assessments in which they shall state the names of the persons or corporations, assessed or owning property chargeable with the expense of said improvement if such names are known to them; if not known to them, it shall be charged against owners unknown; also a description of the property which, if it be a lot or parcel, shall be sufficient, if it refers to the number of the lot or parcel as it is laid down on the map of said village of Green Island, or the map made and filed under the provisions of section eight of this act, and the streets where situated; also, the amount chargeable to each lot or parcel or other property, as the case may be, or the part of a lot, which list when so completed shall be filed with the copy of said map in the office of the clerk of the village of Green Island, and shall be open to the inspection of any person affected thereby for the space of twenty days. It shall be the duty of said commission immediately upon filing such assessment with the village clerk to cause a notice to be served on each person named in said list, either personally, or by mail, directed to their reputed places of residence, if known to said commission, stating the time when and the place where the persons feeling themselves aggrieved with such assessment will be heard for the purpose of equalizing, correcting or making such alterations in such apportionment by increasing or diminishing the amount assessed to each of the persons and corporations named in the said list and which notice shall state the amount which is charged to the person or corporation served with such notice, and if the place or residence of any person named in said list is not known to the said commission, then such notice addressed to unknown owners shall be served as to them by fixing the same on the front door of corporation hall in the village of Green Island. The day for such hearing shall be on a day subsequent to the expiration of the twenty days from the filing of said list as above provided. Said hearing may be adjourned from time to time. At the time and place of hearing mentioned in such notice, it shall be the

Notice of
hearing.

Hearing.

duty of said commission to hear any person interested in said assessment, and feeling himself aggrieved, and after such hearing and duly considering the objections, suggestions and arguments for and against said assessment, it shall be their duty to equalize, correct and alter said assessment when improperly or unfairly and erroneously applied, by increasing or diminishing the respective amounts, as to the commission shall seem just and proper, which equalization, correction or alteration when so made by said commissioners, increasing or diminishing the amount charged to any person mentioned in said list by apportionment, shall be final and conclusive in the premises, and thereupon said commission shall confirm their assessment and sign and certify to the same, and file a duplicate copy with the clerk of the said village, and notices that such assessment has been completed shall be posted in three public places in said village of Green Island immediately on the completion thereof. Upon the filing of such assessment with the clerk of said village, the amount of the cost of said improvements as fixed by said commission therein shall be a first lien upon the respective parcels of land and railroads and franchises therefor described therein, and said amount shall be collected and the lien enforced in the manner herein-after provided.

Equaliza-
tion and
correction
of assess-
ments.

Confirma-
tion of
assess-
ments.
Notice of
completion.

Lien and
collection
of assess-
ments.

§ 15. The amount of each assessment shown on said list shall be due and payable to the village of Green Island ten days from the completing the same, and shall be paid to the person designated by the board of trustees of the village of Green Island, within thirty days thereafter, by each person and corporation against whom the same is assessed; but if the said assessment is not paid within thirty days, it shall be divided into ten equal portions, one portion of which shall become due and payable immediately, and one portion of which shall become due and payable each successive year on the date the said assessment was due, until the same is paid in full, paying interest on the unpaid portion thereof, at the rate of six per centum per annum, from the time the assessment was due, and one per centum per month in addition thereto, after the expiration of ten days from the time any annual instalment is due on such unpaid portion. But any subsequent annual assessment may be paid on any day when any prior annual instalment is due.

Payment
of assess-
ments.

§ 16. After the completion of said assessment, it shall be the duty of said commission to notify the board of trustees of the village of Green Island in writing, the amount assessed against the village of Green Island. The board of trustees shall issue bonds, not to exceed the sum of fifty thousand dollars to pay for the village portion of the expense of such work, under section thirteen, subdivisions two and three of this act; said bonds shall be of such denomination as the board of trustees shall determine, bear interest at not exceeding five per centum per annum, and mature in sums not exceeding three thousand dollars in any one year. Said bonds shall bear date July first, nineteen hundred and twenty-two, and the interest thereon shall be pay-

Bond
issue.

Bonds; de-
nomina-
tion, inter-
est, matur-
ity, etc.

able semi-annually on January first and July first of each year during their respective terms. Said bonds shall be signed by the president and village clerk, and sealed with the village seal. The board of trustees shall convert such bonds into money at not less than their par value, or may obtain temporary loans on the same, and the proceeds therefrom shall be used only for the payment of the cost of such work, as the accounts and vouchers for the same are audited and transmitted to them, through the secretary of the said public improvement commission herein established. Said bonds shall mature as follows: Two thousand dollars on July first, nineteen hundred and twenty-three; three thousand dollars on July first, nineteen hundred and twenty-four and three thousand dollars on each successive year thereafter, until the full amount of said bonds are paid. Said bonds, when so issued, shall be a lien upon all the taxable estates in the village of Green Island, both real and personal. The board of trustees of the village of Green Island shall raise by tax in the manner now provided by law for raising taxes on the taxable property in said village, in addition to the other taxes, authorized by law, the amount of principal, or interest, or both, of said bonds as the same shall become due in any year.

Tax for
payment.

Issue of
certifi-
cates of
indebted-
ness or
bonds
pending
collection
of assess-
ments.

Reissue.

Funds
raised to be
known as
paving
funds; ap-
plication.

Further
assess-
ment in
case of
deficiency.

§ 17. Pending the levy and collection of the assessments, the board of trustees is hereby authorized and empowered to issue certificates of indebtedness, or assessment bonds, of the village of Green Island, not to exceed the amount to be levied against the abutting lots or tracts of land bounded on the streets to be paved and against the railway companies occupying the streets to be paved; and such certificates or bonds to draw interest not to exceed six per centum per annum, and to be signed by the president and village clerk, and to be sold at not less than par; and the proceeds thereof shall be used only for the payment of the obligations entered into under this act for the pavements and work herein authorized to be performed. Such certificates of indebtedness or assessment bonds shall be and become a lien upon all the taxable estate, both real and personal, within said village, and the board of trustees of the said village is hereby authorized to reissue such certificates of indebtedness or assessment bonds, for the payment of the interest thereon or the principal thereof at maturity provided the amount has not been collected from the property assessed therefor.

§ 18. All funds raised by the board of trustees of the said village, under the provisions of this act, shall be kept by the treasurer of said village in a separate account, to be known as the paving funds of said village; and no portion of the same shall be used for any other purpose than to pay for the paving of the streets involved in such contracts, herein provided for; and for the payment of principal and interest of the bonds and certificates herein authorized.

§ 19. If after the letting or awarding of any contract by the said commission for the pavement herein provided for, it shall be discovered that the amount to be collected from the assess-

ments as made will be insufficient to pay the proportionate share of the expenses of the work herein provided to be assessed against the abutting lots and against the railway companies, according to the same ratio and apportionment of said expense, as heretofore described, the said commission may make further assessment against the abutting lots and against the railway companies, according to the same ratio and proportion heretofore set out, and in accordance with the same procedure, or as nearly as may be deemed practicable, as is provided hereinbefore.

§ 20. No assessment shall be set aside or vacated because the true or correct name of the owner of any lot or parcel may not be given, nor because the assessment may be against unknown owners or against the estate of a deceased person named or against the executor or administrators of a deceased person, or against the heirs of a deceased person, without naming them nor through any cause arising from mistake or ignorance as to the true or correct name of the owner, whether individual or corporation, provided the lot or parcel assessed is described so as to identify and indicate the lot it was intended to assess.

Assessments not to be set aside because of certain irregularities.

§ 21. The commission may at any time on discovery of any defect, omission, irregularity, inequality, error or illegality or injustice in any of the proceedings taken or had under this act, rescind and vacate any or all of the proceedings taken or had under the provisions of this act, and correct any such defect, omission, irregularity, inequality, error or injustice and provide for the continuance of the work and completion of the improvement.

Correction of irregularities.

§ 22. In case any assessment or proceeding under this act shall be vacated or set aside by any court, the commission, or if the term thereof has expired, the board of trustees of the said village may rescind, annul or vacate the assessments or proceedings and may make or cause to be made a new assessment or apportionment, including all the costs and expenses of the former assessment, and the new assessment shall have the same force and effect as if no former one had been made, and any person who may have paid a former assessment may be credited on the new assessment with the amount thereon so paid.

New assessment where assessment set aside by court.

§ 23. If any person or corporation against whom any assessment has been levied under the provisions of this act, shall not pay the same, or any instalment thereof within the time specified herein the said board of trustees of the said village shall in the name of the village of Green Island forthwith bring an action in the supreme court against the owners and mortgagees of the lands affected by said assessment and lien and all persons having a specified lien or incumbrance thereon as shall appear by the records of the office of the clerk of Albany county for the foreclosure of the lien of said assessment, and said court shall have jurisdiction in said action; and in default of payment of said assessment and lien within such time as may be fixed by the court for the payment of the same, may order and enter judgment for the foreclosure of said lien and may direct the sale of the prem-

Action for foreclosure of lien of assessment.

ises, railroads and franchises, for the payment of said assessment and lien and the interest thereon, and the expenses of the sale, and the cost of said action, the order aforesaid fixing the time within which said assessments shall be paid shall be entered in the office of the clerk of the county of Albany, and a copy served upon such persons as appeared in said action or their attorneys. The course and proceedings in said action down to and including the sale and confirmation thereof shall be analogous to those in an action for the foreclosure of a mortgage on real property, and shall conform to the procedure and rules of the supreme court. All persons having any lien upon, or interest or estate in said property, and any person entitled to redeem the same for such unpaid assessments any parties defendant in said action and duly served with process, shall be barred and foreclosed of and from any liens, interest or estate in said property under the judgment in said action.

Obligation
of corpora-
tion to pay
portion of
expense of
paving,
not modi-
fied.

§ 24. Nothing herein contained shall be held to repeal or modify the conditions, terms or obligations of any ordinance, franchise, contract or license between the village of Green Island and any corporation whereby any such corporation is required or has agreed to pay any portion of the expense of repairing, paving or grading any public streets in said village or any of the benefits thereof.

Streets
paved to
be kept
clean.

§ 25. When said improvements shall have been completed and accepted by said commission, it shall be the duty of the board of trustees of the village of Green Island and the street commissioner of said village at all times to keep said street so paved, clean and free from all dirt, filth and other refuse matter, and the expense thereof shall be paid by the village of Green Island.

Removal of
pavement
regulated.

§ 26. After such streets to be paved have been paved or repaved, it shall not be lawful for any person, persons or corporations to remove the pavement except by a written permit of a majority of the street committee of the village of Green Island, endorsed by the president; said person, persons or corporations shall give a bond for the restoration of the said pavement within thirty days to its original condition, as nearly as it may be. The board of trustees shall promulgate ordinances regulating the punishment for the violation of this section.

Trustees to
designate
streets to
be paved.

§ 27. The board of trustees of the village of Green Island is hereby authorized and empowered to designate the streets or parts of streets to be paved under the provisions of this act and said commission shall proceed with such work when so directed so far as the funds herein authorized shall permit said work to be fully completed within the limits of the funds herein provided for.

§ 28. This act shall take effect immediately.

CHAPTER 58

AN ACT to amend the Greater New York charter, in relation to county charges.

Accepted by the City.

Became a law February 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine hundred and two of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and last amended by chapter four hundred and fifty of the laws of nineteen hundred and fourteen, is hereby amended to read as follows:

§ 902. In the statement submitted by the comptroller to the board of aldermen, as above provided in this chapter, he shall each year include and state specifically the sum or sums necessary to be raised to pay during the current year the salaries of the county officers and the other county charges and expenses in the counties of New York, Kings, Bronx, Queens and Richmond, respectively, and the board of aldermen is hereby authorized and directed to levy upon and collect from the taxable property within the city of New York as now constituted,¹ the sum or sums so necessary to be raised to pay the salaries of county officers and other county charges and expenses of such² counties.

§ 2. Section fifteen hundred and eighty-three of the Greater New York charter is hereby amended so as to read as follows:

§ 1583. The salaries of all county officers in the counties of New York, Kings, Queens and Richmond shall unless otherwise provided by law be fixed by the board of aldermen on the recommendation of the board of estimate and apportionment, and all county charges and expenses and salaries of county officers in said counties and each of them shall be audited and paid by the department of finance out of the fund or appropriation applicable thereto, and the audit of said department in respect to such charges and expenses shall extend to the reasonableness thereof and shall be, in all respects, as full and complete as the audit of city charges and expenses provided for by section one hundred and forty-nine of this act; but nothing in this section contained shall be construed as in any way changing or modifying the provision contained in section nine hundred and two of this act.³

§ 3. This act shall take effect immediately.

¹ Words "the city of New York as now constituted" substituted for words "each of said counties respectively."

² Remainder of section formerly read: "county; to the end that each of such counties shall ultimately bear and pay all expenses necessary to be incurred within the county for county as distinguished from city purposes."

³ Remainder of section omitted which read: "to the effect that the sums necessary to defray the salaries of county officers and to pay county charges and expenses in said counties shall be levied and assessed upon the property of said four counties, respectively, so that each shall ultimately bear and pay all its own county charges, nor to affect the county of Queens until after the thirty-first day of December, eighteen hundred and ninety-nine."

CHAPTER 59

AN ACT to amend chapter one hundred and sixty-two of the laws of nineteen hundred and ten, entitled "An act in relation to the municipal commission and the police, fire, sewer, water and light departments of the village of Herkimer, and repealing certain acts relating thereto," in relation to the amounts which may be stated and estimated by the municipal commission and raised by tax in any one year.

Became a law February 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1910,
ch. 162,
§ 12,
subd. 6, as
amended by
L. 1917,
ch. 250,
amended.

Section 1. Subdivision six of section twelve of chapter one hundred and sixty-two of the laws of nineteen hundred and ten, entitled "An act in relation to the municipal commission and the police, fire, sewer, water and light departments of the village of Herkimer, and repealing certain acts relating thereto," as amended by chapter two hundred and fifty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

Report of
amounts
necessary
for next
fiscal
year.

6. An estimated statement of the amount necessary to defray the cost of the police department for the next fiscal year; of the amount necessary to defray the cost of the fire department for the next fiscal year; and of the amount necessary to defray the expenses of the sanitary sewer system and department during the next fiscal year, which amounts shall not exceed in the aggregate the sum of twenty-five thousand dollars¹ in any one year; the estimated deficiency in the amount necessary to pay the principal and interest of the water bonds and the electric light bonds, or the expenses of the commission, during the next fiscal year, other than those of the police, fire and sanitary sewer departments, after applying thereto the probable amount of electric current and water rents or other income to be received and any amount available from the sinking fund.

§ 12, as
amended
by L. 1917,
ch. 250,
amended.
Amount
estimated
to be
raised by
tax and
credited to
various
funds.

§ 2. Section thirteen of such chapter, as amended by chapter two hundred and fifty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 13. The board of trustees of the village of Herkimer shall place the amounts so stated and estimated by said commission, not, however, exceeding in the aggregate the sum of thirty-five thousand dollars,² in any one year, in the village budget and tax assessment as part of the ordinary expenses of said village and raise the same by tax, and on the draft or order of said commission the treasurer of the village shall pay such sums and amounts so estimated and raised, over to said municipal commission, and the amount so estimated to defray the cost of the police department shall be placed, by said commission, in and to the credit of the police department fund, and the amount so

¹ Formerly "fifteen thousand dollars."

² Formerly "twenty-five thousand dollars."

estimated to defray the cost of the fire department shall be placed by said commission to the credit of the fire department fund, and the amount so estimated to defray the cost of the sanitary sewer system shall be placed by said commission in, and to the credit of, the sewer department fund, and the balance so estimated and raised shall be placed by said commission in, and to the credit of, the general fund.

§ 3. This act shall take effect immediately.

CHAPTER 60

AN ACT to amend the benevolent orders law, in relation to Knights of Malta and Dames of Malta.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter eleven of the laws of nineteen hundred and nine, entitled "An act relating to benevolent orders, constituting chapter three of the consolidated laws," as last amended by chapter one hundred and eighty-three of the laws of nineteen hundred and fifteen, is hereby amended by adding thereto two new subdivisions, to be subdivisions twenty-seven and twenty-eight, to read as follows:

Subd. 27,
28 added to
L. 1909,
ch. 11,
§ 2.

27. A commandery of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta;

28. A sisterhood of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta;

§ 2. Section seven of such chapter, as last amended by chapter three hundred and fifty-one of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

§ 7, as
amended by
L. 1917,
ch. 351,
amended.

§ 7. **Joint corporations.** Any number of masonic bodies within the state, chartered by the grand lodge of Free and Accepted Masons of the State of New York, the grand chapter of Royal Arch Masons of the State of New York, the grand council of Royal and Select Masters of the State of New York, the grand commandery of Knights Templar of the State of New York, the supreme council of the Ancient and Accepted Scottish Rite for the Northern Masonic jurisdiction, United States of America, or the imperial council of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; any subordinate courts or other bodies of the Foresters of America, instituted, established or authorized by the supreme or a grand court thereof; any lodges,

¹ Previously amended by L. 1910, ch. 145; L. 1914, ch. 509; L. 1915, ch. 492.

encampments and cantons within the state chartered by the grand lodge of the Independent Order of Odd Fellows, the Grand Encampment or by the sovereign grand lodge of the Independent Order of Odd Fellows; any Rebekah lodges under the control and direction of the general assembly of Rebekah lodges of the state of New York, chartered by the grand lodge of the Independent Order of Odd Fellows of the state of New York or by the sovereign grand lodge of the Independent Order of Odd Fellows; any lodges or other bodies of the Knights of Pythias, duly chartered by and installed according to the general rules and regulations of the grand lodge of Knights of Pythias of the State of New York, any post of the Grand Army of the Republic chartered and installed according to the regulations of that organization; any lodges or other bodies of the Benevolent and Protective Order of Elks duly chartered by and installed according to the regulations of that organization, any lodges or other bodies of the Deutcher Orden der Harugari, duly chartered and installed according to the general rules and regulations of the grand lodge of the Deutcher Orden der Harugari of the State of New York, or of the sovereign grand lodge of the Deutcher Orden der Harugari of the United States, any councils or other bodies of the Knights of Columbus chartered and instituted by the national council of the Knights of Columbus pursuant to the charter, constitution and laws of said order, any tribe or other bodies of the Improved Order of Red Men chartered and instituted according to the constitution, general rules and regulations of the Improved Order of Red Men of the State of New York; any commanderies of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta; any sisterhoods of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta,² and any number of trades unions, trades assemblies, trades associations or labor organizations, and any number of subordinate lodges, tribes or other bodies of any benevolent or fraternal order or society incorporated under and pursuant to the laws of this state, may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting, and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form

² Words "any commanderies of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta; any sisterhoods of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta," new.

such corporation shall, at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof for a term of either one, two or three years, as the rules, regulations and by-laws of the body may prescribe, to represent it in such corporation.

If the bodies uniting to form such corporation, do not exceed thirty in number, then each representative so elected shall be a trustee of said corporation, and shall make and file in the office of the clerk of the county where such building is, or is to be located, a certificate of such election signed and acknowledged by the highest two officers of the body electing him, stating the time and place of the election, its regularity, the name of the trustee, and the name of the body from which he was elected. If the bodies uniting to form such corporation shall exceed thirty in number then the representatives elected as hereinbefore provided, shall assemble annually at a time and place fixed by the constitution, by-laws, rules and regulations of the corporation, and shall elect from amongst themselves a president, vice-president, secretary and treasurer, each of whom shall be ex-officio trustees of the corporation, and not less than nine nor more than twenty-four other trustees. In case only two bodies unite to form such corporation, the number of trustees to be elected from each body shall not be less than one or more than three, who shall be elected in the manner above prescribed and whose certificate of election shall be made and filed in the manner and form above prescribed.

The trustees so elected shall make, acknowledge and file with the secretary of state a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

§ 3. This act shall take effect immediately.

CHAPTER 61

AN ACT to amend the insurance law, in relation to publication of notice of intention to extend the term of charter of mutual fire insurance corporations.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-six of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as amended by chap-

L. 1909,
ch. 23,
§ 126, as
amended
by L. 1921,
ch. 237,
amended.

ter two hundred and thirty-seven of the laws of nineteen hundred and twenty-one, is hereby further amended to read as follows:

§ 126. Extension of term of charter of mutual corporations.

Every domestic mutual fire insurance corporation may at any time within two years previous to the termination of its charter, after giving notice once a week for six successive weeks¹ in a newspaper published in the county where such corporation is located of such intention, and with a declaration, under its corporate seal, signed by its president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter for a period of thirty years, by altering and amending the same so as to accord with the provisions of this chapter, and filing a copy of such amended charter and declaration in the office of the superintendent of insurance; whereupon the same proceedings shall be had as are required upon the formation of a mutual fire insurance corporation under this article, except that no examination of the condition and affairs of such corporation shall be required unless so ordered by the superintendent, which proceedings shall be certified to be in accordance with the provisions of this section. Every corporation so extended shall come under the provisions of this chapter in the same manner as if it had been incorporated originally thereunder. Every fire insurance corporation which has heretofore changed from a mutual to a joint-stock corporation, pursuant to the provisions of law, shall be deemed and be held by such change to have continued and extended its charter for the period named therein, not exceeding thirty years from the time of such change.

§ 2. This act shall take effect immediately.

CHAPTER 62

AN ACT to legalize, validate and confirm a sale, made by public auction in the city of Utica on the twenty-eighth day of April, nineteen hundred and twenty-one, by direction of the commissioners of the land office, under the provisions of the public lands law, of certain abandoned Mohawk river channel lands in such city, and to authorize the commissioners of the land office to execute and deliver to the purchaser a quit-claim deed of such lands.

Became a law March 2, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceedings
of com-
missioners
of land
office,
legalized.

Section 1. All acts and proceedings of the commissioners of the land office, their employees and agents, leading up to and including a sale, under the provisions of the public lands law and a resolution adopted by such commissioners on the second day of March, nineteen hundred and twenty-one, at public auction, on the twenty-eighth day of April, nineteen hundred and twenty-one, in the city of Utica, for the sum of four thousand and

¹ Words "once a week for six successive weeks" substituted for words "twice a week for three weeks successively."

forty-seven dollars, of the property described in section two of this act, are hereby legalized, validated and confirmed, notwithstanding any defect, irregularity or omission in such acts or proceedings or any failure on the part of the commissioners of the land office to comply with any lawful requirement of the public lands law, and in particular, notwithstanding the failure to publish notice of the time, place and conditions of sale of such property at least once a week for at least eight weeks, successively, before the sale, such notice having been published but once a week for five successive weeks before such sale.

Notwithstanding irregularities.

§ 2. The commissioners of the land office are hereby authorized and directed, in consideration of the payment heretofore made by the purchaser to the state of the said sum of four thousand and forty-seven dollars, to execute and deliver to the purchaser at such sale a quit-claim deed, in the usual form, of the following described lands, being the lands so advertised and sold and for which the purchaser has made such payment to the state:

Commissioners of land office directed to execute and deliver quit-claim deed.

All that tract or parcel of land situate, lying and being in the city of Utica, county of Oneida, state of New York, bounded and described as follows:

Description of lands.

Beginning at a monument, said monument being at right angles to and one hundred and ninety-four and fifty-one one-hundredths feet southerly from station ten plus thirty-two and twenty-eight one-hundredths of the Utica terminal channel center line; thence south sixty-two degrees twenty-eight minutes west one hundred and sixty-one and seventy-eight one-hundredths feet; thence south four degrees twenty-two minutes west six hundred and seventy-one and ninety-eight one-hundredths feet; thence south twelve degrees sixteen minutes west seven hundred and ninety-seven and sixty-one one-hundredths feet; thence south twenty-nine degrees twenty-five minutes west six hundred and fifty-four and seventy-three one-hundredths feet; thence south thirty-six degrees fifty-nine minutes west one hundred and eighty-seven and sixty-three one-hundredths feet; thence south thirty degrees fifty-seven minutes west five hundred and ninety-seven and seventy-eight one-hundredths feet; thence south thirty-one degrees thirty-seven minutes west eighty-seven feet; thence north sixty-six degrees nine minutes west ninety-eight and ninety-one one-hundredths feet; thence north thirty-one degrees thirty-seven minutes east about seven hundred and four feet to a point on the easterly bank of the Mohawk river; thence down along the easterly bank of said river and westerly bank of the Utica terminal channel about three thousand feet; thence north fifty-three degrees thirty-nine minutes west about one hundred and fifty-five feet to the place of beginning, containing seven and nine hundred and five thousandths acres more or less.

All bearings are referred to the true meridian.

§ 3. The quit-claim deed provided for in this act shall recite that it is made and executed pursuant to the provisions of the public lands law and of this act, describing this act by its chapter number and the year of its enactment.

Recitals in quit-claim deed.

§ 4. This act shall take effect immediately.

CHAPTER 63

AN ACT to amend section fifty-six of the judiciary law, relative to the state board of law examiners.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 35,
§ 56
amended.

Section 1. Section fifty-six of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," is hereby amended to read as follows:

§ 56. **Appointment and compensation of state board of law examiners.** The members of the state board of law examiners shall be appointed from time to time, by the court of appeals, as provided in section four hundred and sixty-one of this chapter. The court of appeals shall fix the compensation of the members of the said board; ¹and may provide and furnish proper and suitable quarters for said board in the court of appeals hall or authorize it to procure the same elsewhere in the city of Albany; and may authorize said board to appoint and remove a clerk, a stenographer and other necessary employees whose compensation shall be fixed by the court. All such compensation and expenses shall be paid by order of the court out of the receipts of said board from fees collected to cover the cost of examinations for admission to practice as hereinafter provided.

§ 2. This act shall take effect immediately.

CHAPTER 64

AN ACT in relation to application to the court for an order directing the manner in which gifts, grants, devises or bequests to Lowville Academy shall be administered or expended.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Where circumstances shall have so changed as to render impracticable or impossible a literal compliance with the terms of an instrument or instruments, heretofore or hereafter executed, containing gifts, grants, devises or bequests to Lowville Academy, in the village of Lowville, Lewis county, for educational uses or purposes, the trustees of such academy or property shall apply to the supreme court, under the provisions of subdivision two of section one hundred and thirteen of the real property law or subdivision two of section twelve of the personal property law, or both, depending upon the nature of the said

¹ Remainder of section new.

instrument or instruments, for an order directing the manner in which the gifts, grants, devises or bequests shall be administered or expended, or if such application be not made within three months after this act takes effect, the state commissioner of education shall investigate and if he finds to his satisfaction that a proper case for such application by such trustees exists, he shall make such application, and the said court may, upon such application being made by such trustees or commissioner of education and upon such notice as the court shall direct, make an order directing that such gifts, grants, devises or bequests shall be administered or expended in such manner as in the judgment of the court will most effectually accomplish the general purpose of the said instrument or instruments, without regard to and free from any specific restriction, limitation or direction contained therein; provided, however, that no such order shall be made without the consent of the donor or grantor of the property, if he be living.

§ 2. This act shall take effect immediately.

CHAPTER 65

AN ACT to amend the town law, in relation to town contracts for lighting improved highways or bridges.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article twelve of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," is hereby amended by adding a new section, to be section two hundred and sixty-five, to read as follows:

§ 265. **Town contracts for lighting improved highways or bridges.** The town board of any town, without establishing a lamp or lighting district as provided by this article and without a petition as required by section two hundred and sixty-one, may contract for the lighting of such improved highways or such bridges in the town outside of villages and cities, as the board deems needed for the safety or convenience of the public. Such contract shall be upon such terms and for such time or period, not exceeding five years, as the board deems proper or expedient. The amount payable annually thereunder shall be a town charge and shall be paid from the surplus money of the town, or if such surplus be insufficient, the town board may cause not exceeding one thousand dollars in any year to be assessed, levied and collected for such purpose at the same time and in the same manner as other town charges. Lighting may be contracted for pursuant to this section in addition to lighting contracted for on account of a lighting district or districts within the town.

§ 2. This act shall take effect immediately.

§ 265
added to
L. 1909,
ch. 63.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 68

AN ACT to amend the education law, in relation to the estimated expenditures for the supreme court library at Plattsburgh.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 21
(revision
of L. 1910,
ch. 140),
§ 1184, as
added by
L. 1919,
ch. 61,
amended.

Section 1. Section eleven hundred and eighty-four of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such section being added by chapter sixty-one of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 1184. **Supreme court library at Plattsburgh.** There is hereby established a law library in and for the fourth judicial district, in the city hall of the city of Plattsburgh, in the county of Clinton. Such library shall be designated the supreme court library in the county of Clinton. Such library shall be under the care and management of a board of five trustees who shall be members of the Clinton county bar and who shall be selected by the justice of the supreme court residing in Clinton county or in case no such justice be a resident of Clinton county, by the justices of the fourth judicial district. Such trustees shall have power to receive by gift, devise or bequest any property given or conveyed for the purposes of the law library. Upon the passage of this act, there shall be appointed in the manner above prescribed one member of such board of trustees who shall serve until the thirty-first day of December, nineteen hundred and twenty-four; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-five; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-six; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-seven, and one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-eight. At the expiration of such term there shall be appointed in the manner above prescribed successors to such trustees each of whom shall serve for ten years and until his successor shall be appointed. The board of trustees shall make rules and regulations for the management and protection of such library and prescribe penalties for the violation thereof. They may sue for and recover for such penalties and may maintain actions for any injury to such library or its property. They may procure proper furniture and equipment for such library and incur all incidental expenses for the care and management thereof, including the proper insurance thereof, and employ and appoint such persons as they may deem necessary for the proper care, management and maintenance of such library.

The amounts required therefor shall be paid by the treasurer of the county of Clinton upon the certificate of the chairman of such board of trustees out of moneys raised in such county for court expenses which amounts shall be a charge upon the county of Clinton. ¹ The board of trustees of said library shall submit to the board of supervisors of the county of Clinton, at its regular annual meeting, an itemized estimate of the amounts which will be required for furniture and equipment and for the care, management and incidental expenses of said library, including the salary of the librarian for and during the ensuing calendar year, the amount of which estimate shall be included in the amount to be raised in said county for court expenses for such ensuing year.

§ 2. This act shall take effect immediately.

CHAPTER 69

AN ACT to amend the insurance law, in relation to proceedings against and the liquidation of delinquent insurance corporations.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section sixty-three of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter three hundred of the laws of nineteen hundred and nine, such subdivision having been last amended by chapter one hundred and nineteen of the laws of nineteen hundred and eighteen,^{1a} is hereby amended to read as follows:

1. Whenever any domestic corporation (a) is insolvent; or (b) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the superintendent, or his deputy or examiner; or (c) has neglected or refused to observe an order of the superintendent to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall have become impaired; or (d) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other corporation, association, society or order, without having first obtained the written approval of the superintendent; or (e) is found, after an examination, to be in such condition that its further transaction

L. 1909,
ch. 22,
§ 63,
subd. 1, as
added by
L. 1909,
ch. 300,
and
amended by
L. 1918,
ch. 119,
amended.

Applica-
tion for
order to
show cause
against
delinquent
corpora-
tion.

¹ Following sentence new.

^{1a} Previously amended by L. 1910, ch. 634; L. 1911, ch. 366; L. 1912, ch. 217.

of business will be hazardous to its policyholders, or to its creditors, or to the public; or (f) has willfully violated its charter or any law of the state; or (g) whenever any officer thereof has refused to be examined under oath touching its affairs; or (h) if such corporation be organized under article five-a, six, seven, eight, ten-a or ten-b of this chapter, its condition is found, after examination, to be such that it could not meet the requirements for incorporation and authorization specified in such articles respectively; or (i) if such corporation has ceased to transact the business of insurance for a period of one year; or (j)² commences voluntary liquidation or dissolution or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs or to dissolve its corporate charter or to procure the appointment of a receiver, custodian or sequestrator under any law except this chapter; or (k)³ if an application is made for the appointment of a receiver, custodian or sequestrator of the corporation or its property, or a receiver, custodian or sequestrator is appointed by a federal court or such appointment is imminent; or (l)⁴ on consent of a majority of the directors, stockholders or members, the superintendent may, the attorney-general representing him, apply to the supreme court or any justice thereof in the judicial district in which the principal office of such corporation is located for an order directing such corporation to show cause why the superintendent should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

§ 63,
subd. 11,
as added by
L. 1911,
ch. 306,
and renum-
bered by
L. 1912,
ch. 217,
amended.

§ 2. Subdivision eleven of section sixty-three of such chapter, as added by chapter three hundred of the laws of nineteen hundred and nine, such subdivision being added by chapter three hundred and sixty-six of the laws of nineteen hundred and eleven and thus renumbered by chapter two hundred and seventeen of the laws of nineteen hundred and twelve, is hereby amended to read as follows: ⁵

Service of
order to
show cause
in pro-
ceedings
against and
liquidation
of delin-
quent cor-
porations.

11. The order to show cause and the papers upon which the same is made in any proceeding instituted under the provisions of this section shall be served upon the corporation named in such order, if it be a domestic corporation, by delivering to the president or other head of the corporation, the secretary or clerk to the corporation, the cashier, the treasurer or a director or managing agent; if it be a foreign corporation, by delivering to the president, vice-president, treasurer or assistant treasurer, secretary or assistant secretary, director or managing agent, or if the corporation lack any of those officers within the state, to the officer performing corresponding functions under another name; if it be a voluntary, unincorporated or a joint stock association, order or society, by delivering to the president, vice-president,

² Subd. (j) new.

³ Subd. (k) new.

⁴ Subd. (l) was formerly subd. (j).

⁵ Subd. 11 materially amended.

treasurer, director, trustee or other officer or a member with managerial powers; if it be a Lloyds association, by delivering to the duly designated attorney-in-fact, a true copy of said order to show cause and the papers upon which it was granted and leaving the same with any such person within the state. When it is satisfactorily proved by the report of an examiner of the insurance department made in accordance with the provisions of section thirty-nine of this chapter or by affidavit that the officers, directors, trustees or managing agents or members of the corporation, association, order or society named in said order to show cause, upon whom service is required to be made as above provided, or, if a Lloyds association be named in the order to show cause, that the duly designated attorney-in-fact, have departed from the state or keep themselves concealed therein or if such of the persons residing in this state and upon whom service is required to be made as above provided have resigned from their offices within forty days prior to the application for an order to show cause under the provision of this section, or that service cannot be made immediately by the exercise of reasonable diligence, such order to show cause may provide for service thereof in such manner as the court or justice by whom the same is made, shall direct.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAPTER 70

AN ACT to detach a portion of the town of Lisbon, Saint Lawrence county, therefrom, and to annex the same to the town of Oswegatchie, in such county.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All that part or portion of the town of Lisbon in the county of Saint Lawrence bounded and described as follows: Beginning at a point in the center of the Saint Lawrence river where the same is intersected by the westerly line of the town of Lisbon projected northerly; running thence northeasterly along the center of said river to a point where said center is intersected by a line from a point in the southerly margin of said river where the same is intersected by the westerly margin of Tibbit's creek that will pass forty-five feet southerly from the southerly low water margin of Chimney island; thence along said line to said point at Tibbit's creek; thence along the westerly margin of said creek to a point situate nine hundred feet southerly from the southerly line of the Boulevard or Proctor avenue or an easterly continuation thereof; thence westerly on a line nine hundred feet distant at right angles from and parallel with said southerly line to the

Certain described portion of town of Lisbon annexed to town of Oswegatchie.

westerly line of the town of Lisbon, and thence northerly along said westerly line projected to the place of beginning; being all that portion of the lands of the Saint Lawrence State Hospital in said town of Lisbon lying within the corporate bounds of the city of Ogdensburg; shall be, and the same hereby are, detached from said town of Lisbon, and shall thereafter become and be a part of the town of Oswegatchie in said county of Saint Lawrence.

Town of
Lisbon not
relieved
from obli-
gations in-
curred.

§ 2. The town of Lisbon shall not be relieved from any obligation or liability, if any, incurred on account of such detached territory being a part thereof prior to the time this act takes effect.

§ 3. This act shall take effect immediately.

CHAPTER 71

AN ACT to authorize the village of Ocean Beach, in the county of Suffolk, to acquire, lease or charter, to maintain and operate ferries and borrow money to acquire or purchase ferries.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The village of Ocean Beach, in the county of Suffolk, may acquire, lease or charter, provide, maintain and operate a ferry or ferries, together with the necessary terminals, for the transportation of passengers, express matter and freight or either of them, between said village and the main land of Long Island, across the Great South bay, during such portions of the year and charging such rates for service as it may deem advisable, and may, upon the adoption of a proposition therefor, borrow money, as provided by section one hundred and twenty-eight of the village law, for the purpose of acquiring any existing ferry or ferries and terminals or either of them, or purchasing a suitable ferry or ferries and terminals or either of them, provided the amount proposed to be paid therefor is stated in such proposition.

§ 2. This act shall take effect immediately.

CHAPTER 72

AN ACT to amend chapter five hundred and nine of the laws of eighteen hundred and eighty-four, entitled "An act to amend and consolidate the several acts in relation to the village of Richfield Springs," generally.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-five of title three of chapter five hundred and nine of the laws of eighteen hundred and eighty-

L. 1884,
ch. 509,
§ 25
amended.

four, entitled "An act to amend and consolidate the several acts in relation to the village of Richfield Springs," is hereby amended to read as follows:

§ 25. The street commissioner shall, under the direction of the board of trustees, superintend all work required and ordered to be done or performed upon any of the streets, highways, lanes, alleys, walks, sewers and reservoirs in said village. He shall hire and employ the requisite laborers and direct them as to the time and manner of the execution of their work, and to certify weekly to said board all persons who shall have been employed by him and the amount paid each person per day. He shall, within the said village, possess the power and perform the duties of overseers of highways, so far as such powers and duties are required to be performed therein, and consistent with this act. He shall keep an accurate account of all moneys expended by him, and shall, at least ten days before the annual election, and at such other times as the board of trustees shall require, render to said board a statement, under oath, setting forth the amount of work done, and when and where done, the amount of money received and paid out, together with the vouchers thereof; and the street commissioner shall receive for his services such sum as the board of trustees shall direct, ¹ for every day actually engaged ² in the performance of his duties, to be paid out of the general highway fund. The pound-master, fire-wardens and other officers appointed by the board of trustees shall perform such duties and possess such powers and be subject to such liabilities as shall be prescribed by the board of trustees.

Street
commis-
sioner:
powers
and
duties.

Pound-
master,
fire-
wardens,
etc.,
duties.

§ 2. Section twenty-nine of title four of such chapter is hereby amended by inserting therein, after subdivision fourteen, a new subdivision, to be subdivision fourteen-a, to read as follows:

Subd. 14a
added to
§ 29.

14-a. The board of trustees may, by a majority vote, adopt an ordinance to be known as the building code, which shall provide therein rules and regulations for the construction, alteration, removal and inspection of all buildings or structures erected or to be erected within the limits of such village, providing therein and regulating thereby the plans and means of all such construction, alteration or removal of all of such buildings and structures.

Trustees
may adopt
building
code.

§ 3. Section thirty-seven of title four of such chapter is hereby amended to read as follows:

§ 37
amended.

§ 37. The board of trustees shall have power to restrain, regulate or prevent hawking and peddling in the streets; to regulate, restrain or prohibit sales by auction and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor; to regulate the use and running of all hacks, automobiles,³ public carriages or vehicles for the conveyance of passengers, baggage or movables of any kind for hire through the public streets; to designate their places of waiting and grant a license to the owners or proprietors thereof and fix the amount to be paid for the same.

Regula-
tion of ped-
dling,
auctions,
hacks, etc.

¹ Words "not exceeding one dollar and fifty cents per day," omitted.

² Word "engaged" substituted for word "spent."

³ Word "automobiles" new.

§§ 44, 47,
51, 52
amended.
General
power to
raise money
by taxa-
tion.

§ 4. Sections forty-four, forty-seven, fifty-one and fifty-two of title six of such chapter are hereby amended to read as follows:

§ 44. The board of trustees shall have power and it shall be their duty to raise annually by taxation upon the taxable inhabitants of the village and the property therein liable to taxation, such a sum of money as they shall deem proper, but not to exceed in one year an amount equal to one per centum of the value of the taxable property in said village, except as hereinafter provided, to be ascertained by the last assessment roll of said town of Richfield, said money as aforesaid to be raised and expended in carrying into effect the several powers and privileges granted and confirmed by this act. Provided however that no ordinary expenditure for any one specific act, object or purpose, or thing, shall exceed the sum of two thousand five hundred dollars.*

Further
sum may
be raised
by consent
of tax-
payers.

§ 47. The board of trustees, or a majority of them, may cause to be raised a further sum not exceeding two thousand dollars in any one year by general tax, provided that the consent of a majority of taxable inhabitants of said village authorized to vote, and voting at an annual or special meeting called for that purpose, be first obtained. Every resident of said village, and a legal voter, upon whose property, or upon whom as the owner or possessor of property, a tax will be chargeable for the purpose of raising such further sum, and no other person shall be entitled to vote at such meeting. All taxes authorized to be assessed in said village in any one year shall, if practicable, be included in one assessment.

Collector
to post
notices of
readiness
to receive
taxes.

§ 51. Upon receiving the tax-roll the collector shall post notices in three public places in said village, that the said roll has been delivered to him for collection of the taxes therein contained, and that he will be ready at such place and on such days of the week to receive payment of taxes therein, and that all persons paying taxes within that period, being thirty days,* will be charged only one per centum for the collection thereof.

Collection
of unpaid
taxes.

§ 52. At the expiration of the thirty days* mentioned in the preceding section the collector shall then proceed to collect the uncollected taxes upon the tax-roll, in the same manner and with the same powers and duties as a town collector in the collection of taxes imposed by the board of supervisors, and shall be entitled to charge in addition to said taxes five per centum for the collection of the same, and in case any person, persons or corporations shall neglect or refuse to pay his, her or their tax, and the fees aforesaid, to levy and collect the same by distress and sale of the goods and chattels of the delinquent, and after deducting from the amount so collected his compensation to pay the residue into the treasury of the village and in all cases to take the treasurer's receipt therefor.

§§ 54, 55
repealed;
now
§§ 54, 55
added.

§ 5. Sections fifty-four and fifty-five of title six of such chapter are hereby repealed and such chapter is hereby amended by in-

* Formerly "five hundred dollars."

* Word "male" omitted.

* Words "thirty days" substituted for words "two weeks."

serting therein in the place thereof new sections, to be sections fifty-four and fifty-five, to read, respectively, as follows:

§ 54. If a tax or assessment upon real property be returned by the collector as unpaid, the board of trustees may direct the treasurer to sell an interest in such property for the unpaid tax in the manner herein prescribed. If such sale be directed, the clerk shall deliver to the treasurer a certified copy of the assessment upon such property, and all entries relating thereto and the treasurer shall thereupon proceed to sell at public auction an estate in such property for the shortest period not exceeding fifty years, for which any person will take such property, and pay the tax, percentage and interest due, together with the expenses of the sale, which shall include the notice of sale and one dollar for the services of the treasurer. Notice of such sale, containing a brief description of such property and the time and place of such sale, shall be published in the official newspaper once in each week for at least four consecutive weeks, posted in at least five conspicuous places and a copy thereof served on the owners of such property at least three weeks before the sale. All such sales shall be for cash and upon payment the treasurer shall deliver to the purchasers a certificate of sale, duly acknowledged, stating the amount paid, the date of sale and a description of the property sold.

Notice of
sale.

Certificate
of sale;
delivery,
contents.

§ 55. Any such certificate may be recorded in the office of the clerk of each county in which any part of such property is situated and if so recorded within two years after the tax became a lien on the property shall have the same effect as the recording of a deed, and give the certificate priority over every interest therein or lien thereon acquired subsequent to the lien of the tax; but unless such certificate is so recorded it shall be void as to such other interest or lien. Upon the receipt and recording of any such certificate, the purchaser of such certificate or his assignee shall be entitled to immediate possession and enjoyment of such real property, as against all persons having any title to, interest in or lien upon such property, and to retain such possession during the existence of the estate purchased, unless such property be redeemed from such sale. The purchaser or other owner may enforce his right to possession by summary proceedings in the same manner as between a landlord and tenant holding over after expiration of term. If there be no other bidder the village may bid in the property for the village for the term of fifty years and have the same rights as the purchaser of any such certificate. The owner or his assigns may redeem from any such sale by depositing with such treasurer the amount paid by the purchaser together with interest thereon at the rate of ten per centum to the time of such payment and the fees paid to the county clerk for recording such certificate. Upon payment to such treasurer, he shall issue a certificate thereof, duly acknowledged, and the recording of such certificate shall effect a cancellation of such certificate of sale.

Recording
certifi-
cates;
effect.

Rights of
purchaser.

When vil-
lage to
bid in
property.

Redemption
by owner.

§§ 55a,
55b added.

Action to
recover
unpaid
tax.

Warrant of
attachment.

Lien of
judgment.

Execution.

Supple-
mentary
proceed-
ings.

Cemetery
commis-
sioners em-
powered to
assess
owners of
lots.

§ 6. Such chapter is hereby amended by inserting therein, after section fifty-five, two new sections, to be sections fifty-five-a and fifty-five-b, to read, respectively, as follows:

§ 55-a. After the lapse of thirty days from the return of the collector, an action may be maintained, as upon contract, by the village, to recover the amount of an unpaid tax, together with five per centum thereof, and interest from the time of such return at the rate of ten per centum per annum. A warrant of attachment against the property of the defendant may be granted upon the application of the plaintiff as provided by and under article fifty-four of the civil practice act, regardless of the amount of such tax. A judgment in such action for any amount, when docketed in the office of the county clerk, shall be a lien upon the real property of the defendant, having the same priority, as such lien, as the taxes upon which there was a recovery recovered in such action, and an execution upon the judgment may be issued and enforced against the real property of the defendant regardless of the amount of such judgment. Supplementary proceedings may also be taken for such tax in accordance with the provisions of the tax law, regardless of the amount of such judgment.

§ 55-b. The board of cemetery commissioners of such village shall have, in addition to the powers granted by section two hundred and ninety-two of the village law, the power to assess the owners of lots in any cemetery in such village an amount not exceeding two dollars per year for the purpose of raising moneys to keep the lots in such cemetery in good and proper condition, and the trustees of such village for that purpose shall have all the powers mentioned in section seventy-two of the membership corporations law.

§ 7. This act shall take effect immediately.

CHAPTER 73

AN ACT authorizing the city of Elmira to construct public school buildings and to acquire sites for such construction and to issue bonds for these purposes.

Accepted by the City.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Issuance of
public
school con-
struction
bonds,
authorized.

Section 1. The city of Elmira, by its board of education and its common council, is hereby authorized to issue from time to time pursuant to resolution duly adopted by the common council, upon receiving a certified copy of a resolution of the board of education requesting the same, the bonds of said city of Elmira in a sum not exceeding in the aggregate five hundred and fifty thousand dollars, to be known as "public school construction

bonds." Said bonds shall be signed by the president and secretary of the board of education and by the mayor and city clerk of the city of Elmira and sealed with the seal of said city and shall be of the same denomination or denominations and shall mature at such time or times and pay such rate of interest not exceeding five per centum per annum as the common council of said city shall determine and shall not be sold at less than par, provided, however, that the time fixed for the maturity of any such bonds shall not be more than thirty years from the date of issue, but nothing herein contained shall prevent the refunding of the debt created thereby or in part thereof in the manner provided by law.

Bonds;
execution,
denomina-
tion,
maturity,
etc.

§ 2. The chamberlain of the city of Elmira shall make and keep in his office a record of said bonds by number, date, amount, date or dates of maturity and the name or names of the payee of any of such bonds as may be registered. The moneys raised from the sale of said bonds shall be paid to the chamberlain of the city of Elmira and by him placed apart as a deposit and such fund to be known as the "Elmira School Construction Fund" and shall be disbursed by him upon the order of the president and secretary of the board of education.

Record of
bonds.

Elmira
School Con-
struction
Fund.

§ 3. The city of Elmira is authorized to raise by taxation in addition to all other sums now authorized by law, whatever sums may be necessary to pay the interest on said bonds and the principal at the time of the maturity thereof.

Tax for
payment.

§ 4. The board of education shall use and expend the moneys raised from the sale of said bonds, together with the interest on daily balances accruing on the unused proceeds therefrom, for the following purposes and none other:

Applica-
tion of
moneys
raised.

To erect and construct one or more public school buildings in the city of Elmira upon the site or sites to be selected by the board of education, provided, however, that said construction is to be in accordance with the requirements of the department of education of the state of New York. The board of education is hereby authorized and empowered to acquire such land as may be needed for proper and suitable sites, either by purchase, gift or condemnation or otherwise. The board of education shall cause to be prepared, plans and specifications in accordance with its determination which plans and specifications shall be approved by the New York state department of education, and thereafter advertise for proposals to carry out and execute such plans and specifications, all or any of which proposals it may reject. Any contract of said board of education executed pursuant to a resolution legally adopted by the majority of the members of the board of education shall thereafter be binding on the city of Elmira.

Construc-
tion of
school
buildings.

Acquisi-
tion of
sites.

Plans and
specifica-
tions; pro-
posals; con-
tracts.

§ 5. The board of education shall have power to do all other things which it may deem necessary to carry out the provisions of this act not inconsistent with this act and with the requirements of the educational department of the state of New York.

Powers of
board of
education.

§ 6. Any unexpended balance of the moneys of said funds hereby authorized shall be retained by the city chamberlain for

Applica-
tion of
unexpended
balance.

the period of two years and if more than one building is authorized by the board of education to be constructed, the said unexpended sum shall be applicable to the construction of said second building or the acquisition of a site or sites therefor, otherwise said unexpended balance shall be applied at the end of two years to the payment of the bonds hereby authorized.

Acquisition of lands by condemnation.

§ 7. If for any reason the lands necessary for said building or buildings cannot be acquired by purchase, the board of education is authorized to acquire the same by condemnation in accordance with the provisions of the condemnation law.¹

§ 8. This act shall take effect immediately.

CHAPTER 74

AN ACT to amend the charter of the city of Cortland, in relation to the maximum amount of annual city tax levy.

Accepted by the City.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1900, ch. 160, § 53, subd. 8, as amended by L. 1917, ch. 123, amended.

Tax for general city fund.

Aggregate annual levy.

Additional amounts.

Section 1. Subdivision eight of section fifty-three of chapter one hundred and sixty of the laws of nineteen hundred, entitled "An act to incorporate the city of Cortland," as amended by chapter one hundred and twenty-three of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

8. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated as the general city fund. The aggregate for the annual tax levy for all purposes in this section above provided exclusive of the school fund² shall not exceed the rate of one per centum of the assessed valuation of the real and personal property liable to taxation in said city, as the same shall appear from the assessment roll of said city for the current year. In addition to the amounts which shall be included in the annual tax levy for the foregoing purpose, there shall be included such amount as shall be necessary to meet the principal and the interest on the bonded and other indebtedness of the city falling due during the fiscal year for which the tax is levied, and to meet all indebtedness remaining unpaid on all judgments against the city; and such further sums as shall have been voted at a regular city election, or at a special city election called for the purpose, and also for such other sums as the common council is authorized to expend for purposes specified in this act.

§ 2. This act shall take effect immediately.

¹ L. 1920, ch. 923.

² Words "school fund" substituted for words "public works fund and the lighting fund."

CHAPTER 75

AN ACT to revive and extend the corporate existence of Carthage Machine Company, and legalize the acts of its directors, as trustees.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The corporate existence of the Carthage Machine Company is hereby revived and the said Carthage Machine Company is hereby declared to be a valid corporation with the same force and effect as the same existed on the seventh day of January, nineteen hundred and twenty, and prior to the expiration of the period for which said corporation was created; with all the powers, privileges, franchises, and subject to the same duties, obligations and restrictions in respect to such powers under the laws of this state in force on or before the seventh day of January, nineteen hundred and twenty, which were conferred and imposed in respect to said corporation, and with the same force and effect as if the said corporate existence and organization had been extended according to law prior to the said seventh day of January, nineteen hundred and twenty, and before the expiration of the period of time for which said corporation was created; and the acts of the directors of said corporation, acting as trustees, between the seventh day of January, nineteen hundred and twenty, and the time this act takes effect are hereby legalized, ratified and confirmed.

Corporate
existence
revived;
declared
valid
corporation.

Acts of
directors
legalized.

§ 2. The corporate existence of the said Carthage Machine Company is hereby revived and extended as of the seventh day of January, nineteen hundred and twenty, to be perpetual, subject to the power of the legislature, by law, to hereafter limit or terminate its existence, and to be possessed and seized of all the property, and be vested with all the rights and privileges had, possessed, seized and enjoyed by the said Carthage Machine Company at any time prior to the seventh day of January, nineteen hundred and twenty, and such corporation shall be deemed to have existed for all purposes from the date last mentioned, without any lapse, forfeiture or interruption of its corporate existence, and subject to the same liabilities and restrictions provided by law.

Corporate
existence
revived
to be per-
petual.

Corpora-
tion deemed
to have ex-
isted with-
out lapse.

§ 3. The said corporation shall, within thirty days after this act takes effect, file in the office of the secretary of state a certificate, under the signature of an officer thereof, setting forth:

Certifi-
cate to be
filed with
secretary
of state.

1. The name of the corporation.

2. The date on which its original certificate of incorporation was filed in the office of the secretary of state.

3. That its existence is revived and extended to be perpetual, pursuant to this act, and citing the same by chapter number and year of passage.

the period of two years and if more than one building is authorized by the board of education to be constructed, the said unexpended sum shall be applicable to the construction of said second building or the acquisition of a site or sites therefor, otherwise said unexpended balance shall be applied at the end of two years to the payment of the bonds hereby authorized.

Acquisition of lands by condemnation.

§ 7. If for any reason the lands necessary for said building or buildings cannot be acquired by purchase, the board of education is authorized to acquire the same by condemnation in accordance with the provisions of the condemnation law.¹

§ 8. This act shall take effect immediately.

CHAPTER 74

AN ACT to amend the charter of the city of Cortland, in relation to the maximum amount of annual city tax levy.

Accepted by the City.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1900, ch. 160, § 53, subd. 8, as amended by L. 1917, ch. 123, amended.

Tax for general city fund.

Aggregate annual levy.

Additional amounts.

Section 1. Subdivision eight of section fifty-three of chapter one hundred and sixty of the laws of nineteen hundred, entitled "An act to incorporate the city of Cortland," as amended by chapter one hundred and twenty-three of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

8. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated as the general city fund. The aggregate for the annual tax levy for all purposes in this section above provided exclusive of the school fund² shall not exceed the rate of one per centum of the assessed valuation of the real and personal property liable to taxation in said city, as the same shall appear from the assessment roll of said city for the current year. In addition to the amounts which shall be included in the annual tax levy for the foregoing purpose, there shall be included such amount as shall be necessary to meet the principal and the interest on the bonded and other indebtedness of the city falling due during the fiscal year for which the tax is levied, and to meet all indebtedness remaining unpaid on all judgments against the city; and such further sums as shall have been voted at a regular city election, or at a special city election called for the purpose, and also for such other sums as the common council is authorized to expend for purposes specified in this act.

§ 2. This act shall take effect immediately.

¹ L. 1920, ch. 923.

² Words "school fund" substituted for words "public works fund and the lighting fund."

CHAPTER 75

AN ACT to revive and extend the corporate existence of Carthage Machine Company, and legalize the acts of its directors, as trustees.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The corporate existence of the Carthage Machine Company is hereby revived and the said Carthage Machine Company is hereby declared to be a valid corporation with the same force and effect as the same existed on the seventh day of January, nineteen hundred and twenty, and prior to the expiration of the period for which said corporation was created; with all the powers, privileges, franchises, and subject to the same duties, obligations and restrictions in respect to such powers under the laws of this state in force on or before the seventh day of January, nineteen hundred and twenty, which were conferred and imposed in respect to said corporation, and with the same force and effect as if the said corporate existence and organization had been extended according to law prior to the said seventh day of January, nineteen hundred and twenty, and before the expiration of the period of time for which said corporation was created; and the acts of the directors of said corporation, acting as trustees, between the seventh day of January, nineteen hundred and twenty, and the time this act takes effect are hereby legalized, ratified and confirmed.

Corporate existence revived; declared valid corporation.

Acts of directors legalized.

§ 2. The corporate existence of the said Carthage Machine Company is hereby revived and extended as of the seventh day of January, nineteen hundred and twenty, to be perpetual, subject to the power of the legislature, by law, to hereafter limit or terminate its existence, and to be possessed and seized of all the property, and be vested with all the rights and privileges had, possessed, seized and enjoyed by the said Carthage Machine Company at any time prior to the seventh day of January, nineteen hundred and twenty, and such corporation shall be deemed to have existed for all purposes from the date last mentioned, without any lapse, forfeiture or interruption of its corporate existence, and subject to the same liabilities and restrictions provided by law.

Corporate existence revived to be perpetual.

Corporation deemed to have existed without lapse.

§ 3. The said corporation shall, within thirty days after this act takes effect, file in the office of the secretary of state a certificate, under the signature of an officer thereof, setting forth:

Certificate to be filed with secretary of state.

1. The name of the corporation.
2. The date on which its original certificate of incorporation was filed in the office of the secretary of state.
3. That its existence is revived and extended to be perpetual, pursuant to this act, and citing the same by chapter number and year of passage.

Such certificate shall be acknowledged by the officer executing the same, in the manner required of a deed to be recorded within the state.

Pending
actions.

§ 4. Nothing in this act contained shall affect any action or proceeding pending at the time this act takes effect.

§ 5. This act shall take effect immediately.

CHAPTER 76

AN ACT to amend the county law, in relation to width of streets in real property development in Nassau county.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 251
added to
L. 1909,
ch. 16.

Section 1. Article fifteen of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended by adding thereto a new section, to be section two hundred and fifty-one,¹ to read as follows:

§ 251. **Width of streets for real property development in Nassau county.** If any person or corporation, as owner or agent, shall have subdivided real property in the county of Nassau, outside of a city or village, into lots, plots, blocks or sites, and shall offer the same for sale to the public, the streets within such development so dividing the same into lots, plots, blocks or sites, shall be at least three rods in width, and shall be so indicated on any map thereof filed with the county or town clerk pursuant to section three hundred and thirty-four of the real property law, before such lots, plots, blocks or sites are offered for sale, unless the town superintendent of the town in which such real property is located shall consent that any such street, or part thereof, be of a lesser width, which, however, shall not be less than two rods. Such consent, if granted, shall be evidenced by certificate of the town superintendent, describing or designating such street or portion thereof with sufficient exactitude to locate the same on the map of such real property, filed in the offices of the county and town clerks. Such certificate shall be issued in duplicate and a copy filed in each such offices. If a map of such real property shall have been theretofore filed in such offices, the county or town clerk shall indicate thereon every street or portion thereof to which such consent applies. The provisions of this section shall not apply to streets, not less than two rods in width, heretofore laid out in a real property development, described in this section, if dwelling houses shall have been erected thereon. Any person or corporation violating this section shall be guilty of a misdemeanor, and in addition, any contract for the sale of a lot or plot in such development, and any deed or conveyance thereof, may

¹ A § 251 was previously added by L. 1921, ch. 227.

be set aside by the supreme court, upon proof of the fact that a street or portion thereof in such development, on which such lot or plot is situated, has not been laid out as required by this section.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two. In effect
July 1,
1922.

CHAPTER 77

AN ACT to amend the debtor and creditor law, in relation to discharge of bankrupt from judgment.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and fifty of chapter seventeen of the laws of nineteen hundred and nine, entitled "An act relating to debtors and creditors, constituting chapter twelve of the consolidated laws," is hereby amended to read as follows: L. 1909,
ch. 17,
§ 150
amended.

§ 150. **Discharge of bankrupt from judgment.** At any time after one year has elapsed since a bankrupt was discharged from his debts, pursuant to the acts of congress relating to bankruptcy, the bankrupt, his receiver, trustee or any other interested person or corporation,¹ may apply, upon proof of the bankrupt's² discharge, to the court in which a judgment was rendered against him, or if rendered in a court not of record, to the court of which it has become a judgment by docketing it therein,³ for an order, directing the judgment to be canceled and discharged of record. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing said judgment to be canceled and discharged of record; and thereupon the clerk of said court shall cancel and discharge the same, by marking on the docket thereof that the same is canceled and discharged by order of the court, giving the date of entry of the order of discharge. Where the judgment was a lien on real property owned by the bankrupt more than four months⁴ prior to the time he was adjudged a bankrupt, the lien thereof upon said real estate shall not be affected by said order and may be enforced, but in all other respects the judgment shall be of no force or validity, nor shall the same be a lien on real property acquired by him subsequent to his discharge in bankruptcy. Notice of the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor, or his attorney of record in said judgment, in the same manner as

¹ Words "the bankrupt, his receiver, trustee or any other interested person or corporation," substituted for word "he."

² Words "the bankrupt's" substituted for word "his."

³ Word "therein" substituted for words "or filing a transcript thereof."

⁴ Words "more than four months" new.

prescribed in rule twenty of the rules of civil practice,⁵ if the residence or place of business of such creditor, or his attorney, is known; but if unknown and cannot be ascertained after due diligence, or if such creditor is a non-resident of this state, and his attorney is dead, removed from, or cannot be found within the state, upon proof of said facts by affidavit, a judge of the court may make an order that the notice of such application be published in a newspaper designated therein, once a week for not more than three weeks, which publication shown by the affidavit of the publisher, shall be sufficient service upon such judgment creditor, of the application.

§ 2. This act shall take effect immediately.

CHAPTER 78

AN ACT to amend the highway law, in relation to the powers of certain officers and employees in the state tax department with respect to motor vehicles.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 309a
added to
L. 1909,
ch. 30.

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting a new section to follow section three hundred and nine, to be section three hundred and nine-a, to read as follows:

§ 309-a. **Powers of inspection.** Any member of the state tax commission, or any deputy or employee duly authorized by the commission, may act as inspectors or investigators of motor vehicles; and such officers or employees so authorized are declared to be peace officers within the provisions of section one hundred and fifty-four of the code of criminal procedure and shall have and may exercise all the powers of such peace officers with respect to violations of articles eleven and eleven-a of the highway law.

§ 2. This act shall take effect immediately.

⁵ Words "rule twenty of the rules of civil practice," substituted for words "section seven hundred and ninety-six and seven hundred and ninety-seven of the code of civil procedure."

CHAPTER 79

AN ACT to amend chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," in relation to the rules for the use and government of the Palisades Interstate Park.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," as last amended by chapter one hundred and sixty-eight of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

L. 1900,
ch. 170,
§ 5, as
amended by
L. 1917,
ch. 169,
amended.

§ 5. Acquisition of lands; maintenance of park. The said board of commissioners shall have the power to acquire, maintain and make available for use as a public park, the lands located as aforesaid, and for this purpose shall have power to take in fee or otherwise, by purchase, gift, devise or eminent domain, the said lands, or any of them and any rights, interests and easements therein, and to receive by gift, contribution or bequest moneys to be used in acquiring or improving the said lands or any of them; said board shall also have power to acquire for park purposes by gift or devise, and also by purchase when funds are hereafter made available therefor by the legislature, but not by eminent domain, any lands or rights in lands outside of the areas defined in section four; deeds of conveyance for such lands shall be made to said board of commissioners by its corporate name, and it shall be the duty of said board to preserve, care for, lay out and improve the said park and to make rules for the use and government of the same, and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;² said board shall have power also to lay out, construct and

¹ Previously amended by L. 1906, ch. 691; L. 1910, ch. 361.

² Words "and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;" new.

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quiewards upon, across and over
construct and maintain roads between
portions of said park, and for this
way upon and across any intervening
construct and maintain roads and ways
ways within said park with other public
thereto. The said board of com-
out and maintaining said park have re-
and maintenance of such park as may be
State of New Jersey along the Palisades and
shall, so far as may be, lay out and maintain
manner that it, together with such park as may
the state of New Jersey, shall form a continuous
tion of this act being to provide, in conjunction
of New Jersey, for the establishing of a park
the front of the Palisades from Fort Lee, in New
the termination thereof in this state, and along the
the mountain lands extending along the west bank of the
river from the northerly limit of the Palisades to the
reservation at Stony Point and in the mountainous lands
and adjacent to the west bank of the Hudson river in Rock-
and Orange counties south of the city of Newburgh and in
lands to the west thereof and extending into the Ramapo
mountains and in such other lands as may be acquired by the
said board of commissioners, except the land comprised in the
said United States government reservation at West Point and the
land comprised in the said state reservation at Stony Point and
thereby preserving the scenic beauty of the Palisades and of said
lands or securing the use thereof to the public for park purposes.

§ 2. This act shall take effect immediately.

CHAPTER 80

AN ACT to authorize the village of Clifton Springs, in Ontario county, to
sell its electric light plant and system.

Became a law March 7, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Sale au-
thorized.

Section 1. The board of trustees of the village of Clifton
Springs, in the county of Ontario, is hereby authorized to sell
and convey the electric light plant and system now owned by
such village, for such price and upon such terms as may be ap-
proved by a majority of the voters of such village qualified to
vote upon a proposition, as provided in section forty-one of the
village law, provided a majority of such voters vote in favor of
such sale at an annual election or at a special election held pur-
suant to section fifty-six of the village law.

§ 2. In case such sale is authorized, conveyance or conveyances of the property when made shall be made as provided in subdivision three of section eighty-nine of the village law. Convey-
ance, how
made.

§ 3. This act shall take effect immediately.

CHAPTER 81

AN ACT to amend chapter one hundred and five of the laws of eighteen hundred and seventy, entitled "An act to incorporate the trustees of the Orphan House and Industrial School of the Holy Savior, near Cooperstown, New York," in relation to trustees.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter one hundred and five of the laws of eighteen hundred and seventy, entitled "An act to incorporate the trustees of the Orphan House and Industrial School of the Holy Savior, near Cooperstown, New York," as amended by chapter three hundred and forty of the laws of eighteen hundred and ninety-one, is hereby amended to read as follows: L. 1870,
ch. 106,
§ 3, as
amended by
L. 1891,
ch. 240,
amended.

§ 3. The corporation shall be managed by a board of trustees, Trustees, which shall consist of the bishop of the Protestant Episcopal church in the diocese of Albany, who shall be ex-officio president of the same, the rector of Christ church, Cooperstown, ¹ one trustee to be elected annually by the synod of the province of New York and New Jersey of the Protestant Episcopal church in the United States of America, and nine other persons. Such ² nine trustees shall be elected by the annual diocesan convention of said diocese. ³ At each annual election hereafter ⁴ three trustees only shall be elected to hold office for three years. The board of trustees may fill any vacancy in the office of trustee by appointment to serve until the next ⁵ election, at which time a trustee shall be elected to fill such vacancy for the unexpired term. By their corporate name said trustees shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same may alter and change at pleasure; may make by-laws for the management of the affairs of said corporation not inconsistent with the constitution and laws of this state or the United States; may appoint servants and teachers for the institution under their charge, and allow Election
and terms
of trustees,

Corporate
powers.

¹ Remainder of sentence formerly read: "Susan Fenimore Cooper, during her lifetime, and nine other persons."

² Word "Such" substituted for word "Said."

³ Sentence omitted which read: "At the first annual election held after the passage of this act, nine trustees shall be elected, who shall divide themselves by lot into three classes, three of whom shall hold office for one year, three for two years and three for three years."

⁴ Word "hereafter" substituted for word "thereafter."

⁵ Word "annual" omitted.

them a suitable compensation for their services; may appoint a secretary and treasurer, and cause a record to be kept of the proceedings of the board of trustees in a book or books which shall be open to the inspection of the said convention, or any committee of the same; shall make an annual report to the said convention, showing in detail their proceedings, the condition of the property and funds intrusted to their charge, and their receipts and expenditures; shall conform to any instructions or directions of the said convention touching the management and care of said orphanage, and the property and funds of the same, provided the same shall be in writing and entered on the journals of the said convention. The trustees of said corporation who shall be in office at the date of the passage of this act shall hold the same until the ⁵election herein provided for and until their successors are elected.

§ 2. This act shall take effect immediately.

CHAPTER 82

AN ACT to amend the conservation law, in relation to the Cuba reservation. Became a law March 7, 1922, with the approval of the Governor. Passed,

three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 50,
subd. 32,
as added
by L. 1917,
ch. 286,
amended.

Section 1. Subdivision thirty-two of section fifty of article four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added to said section fifty by chapter two hundred and sixty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

Care and
control of
Cuba re-
servation.

32. Have the care, custody, control and administration of the Cuba reservation. The said reservation is to be preserved and maintained for reservoir and camping purposes. The commission shall have the power to make all rules and regulations, which in its judgment are necessary for the use and preservation of the said premises and property; to make leases or renewals thereof of lots of land therein, adjacent to or surrounding the reservoir for terms not to exceed five years; to permit the erection of structures by the lessees with the privilege of removing the same during the term of said lease; and fix the terms and conditions upon which leases shall be made; ¹to arrange for sanitation and provide for the removal of waste matter and to charge lessees of lots therefor. Lands in the Cuba reservation which are not deemed by the conservation commission desirable for camping

Lease of
lots.

Sanita-
tion.

Sale or
exchange of
undesir-
able lands.

⁵ Word "annual" omitted.

¹ Remainder of sentence new.

purposes may be sold or exchanged for other lands which it may be necessary to acquire in order to consolidate holdings or make better administration of the property possible. So much of the proceeds from the sale of lands, as shall by the conservation commission be deemed necessary, may be used to purchase other land situated between the public highway now running around the lake and the high water mark of the reservoir or may be used for building roads or otherwise improving the reservation. The commission shall on behalf of the state in case of sale or exchange have the power and authority to convey the state's interest in such lands. ² Money collected for sanitation and waste removal may be expended by the commission for that purpose.

Applica-
tion of
moneys
received.

The provisions of section thirty-seven of the state finance law shall not apply to any moneys received pursuant to the provisions of this subdivision if used for the purposes indicated, but all such moneys shall be deposited pursuant to the provisions of section ten of the state finance law.

§ 2. This act shall take effect immediately.

CHAPTER 83

AN ACT to amend chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam," generally.

Accepted by the City.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seven of title nine of chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam," is hereby amended to read as follows:

L. 1911,
ch. 242,
§ 107
amended.

§ 107. **Consideration of annual estimates by common council; transmission thereof to the mayor.** The common council shall, at its first regular meeting in February of each year, carefully consider the estimates submitted to it by the various city officials. The said common council shall thereupon make an estimate of the several amounts of money which it deems necessary to provide: For the expenses of conducting the business of the city in each board, department and office thereof, and for the various purposes contemplated by this act and otherwise by law for the said fiscal year, except the expenses of the board of education and the expenses of the department of public health;¹ to pay the principal

¹ Following sentence new.

² Words "department of public health" substituted for words "board of health."

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any bonded or other indebtedness of the city, during the said fiscal year, except the principal and interest thereon to provide for a supply of water for the amount so voted for at a taxpayer's election; the city's share of expenses of paving and grading during the preceding fiscal year; and the amount of any remaining unpaid on all judgments against the common council may include in its estimate such sums as may be necessary to retire any maturing bonds heretofore issued for a supply of water for said city, the payment of which shall be fully provided for by moneys held in some fund. The said annual estimates shall have been compared by the common council shall submit the amount to the mayor, in writing, with such reasons for such estimate as the mayor may deem proper.

Section one hundred and eight of title nine of said chapter amended to read as follows:

Section of mayor over annual estimate as made by common council. When the receipt by the mayor of the annual estimate of the common council, as provided for in this chapter, he shall carefully consider the same and shall have power to diminish or reject any item or items thereof but not to increase any item thereof; except the power to diminish or reject any item voted for at a taxpayer's election, or the sums lawfully payable within said fiscal year on judgments against the city, or the amount necessary for the city's share of paving and grading, nor shall the mayor increase any item for any purpose contained in said estimate. When the mayor shall have revised said estimate of the common council, he shall add thereto the amounts determined by the health officer² and the board of education to be necessary for the expenses of their departments during the current fiscal year, and shall thereupon finally approve said estimate as revised and shall return the same to the common council on or before the first regular meeting of said common council in the month of March of each year, with a statement of the reasons for any changes made by him in the estimates as proposed by the common council.

Section one hundred and ten of title nine of said chapter, amended by chapter sixty-one of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

110. Maximum amount of the annual city tax levy. The amount of the annual city tax levy as finally made up, adopted and ordered levied, as provided in the preceding section, after deducting therefrom the amounts required by the board of education, the department of public health,⁴ the amount voted for at a taxpayers' election, the city's portion of all paving and

² "health officer" substituted for words "board of health."
³ sly amended by L. 1916, ch. 78; L. 1918, ch. 169; L. 1919, ch. 255.
⁴ "department of public health" substituted for words "board of

grading, the amount determined necessary to retire any maturing water bonds for the payment of which no sufficient sinking fund has been provided, the amount necessary to pay the interest on all outstanding sewer bonds and obligations, and the principal of such bonds and obligations as mature during the fiscal year, and the amount remaining unpaid on all judgments against the city, shall not in any one year exceed in the aggregate the sum of three hundred thousand dollars, from which said sum of three hundred thousand dollars there shall be deducted the estimated revenues of the city from all sources for the fiscal year.

§ 4. Subdivision "second" of section one hundred and thirteen of title nine of said chapter is hereby amended to read as follows: § 113, subd. second amended.

Second: For the payment and ⁵ redemption of all bonds hereafter issued for water purposes, including bonds reissued or refunded, by setting aside annually a sum which will produce an amount equal to the sum of the principal ⁶ of said bonds maturing during said year, and the annual interest on all of said bonds outstanding,⁷ and also for the purpose of making the payments required by law into the sinking funds which have been heretofore created for the purpose of redeeming bonds issued to provide for a supply of water, ⁸ and that may be issued, authorized by and in compliance with section ten of article eight of the constitution of the state of New York and in excess of the limitation of indebtedness fixed therein. Application of water fund.

§ 5. Section one hundred and fourteen of title nine of said chapter is hereby amended to read as follows: § 114 amended.

§ 114. **Issuance of bonds.** The common council, by a vote of two-thirds of its members elected, shall have power to borrow money for the purpose of paying, reissuing or refunding the whole or any part of the water bonds of the city of Amsterdam, when the same shall fall due and sufficient funds for their payment are not on hand and applicable thereto, and shall make, execute and deliver new bonds or other obligations to secure the payment of said loan. The common council shall also have power to borrow such sums as shall have been authorized by a majority vote at the taxpayers' election held as provided for in this act, and such sums as shall have been authorized under the provisions of the education law and after compliance with the requirements thereof,⁹ and may make, execute and deliver bonds or other obligations to secure the payment of said loan. All bonds of said city issued as provided by this section, for whatever purposes, shall be advertised and sold by the mayor, corporation counsel and

⁵ Words "payment and" substituted for words "creation and maintenance of a sinking fund to meet the."

⁶ Words "and interest" omitted.

⁷ Words "maturing during said year, and the annual interest on all of said bonds outstanding," substituted for words "at their maturity."

⁸ Remainder of sentence new.

⁹ Words "and such sums as shall have been authorized under the provisions of the education law and after compliance with the requirements thereof," new.

city treasurer. They shall cause to be published in the official papers of the city, daily for not less than five successive days, Sundays excepted, a notice containing a description of the bonds to be sold, the manner and place of sale and the time when the same shall be sold, or the time limited for the receipt of sealed proposals, which shall not be less than ten days from the first publication of said notice. When bonds are sold under sealed proposals, no proposal shall be opened until one hour after the time limited for the receipt thereof has elapsed, and all proposals shall be opened in public. Award shall be made to the highest bidder. At any sale of bonds either by auction or under sealed proposals, the mayor, corporation counsel and treasurer, or a majority of them, may reject all bids and readvertise if in their opinion the price offered is inadequate. All said bonds or other obligations shall be issued in the name of and under the seal of the city, upon such terms of credit and at such rate of interest as the common council may determine; and all such bonds shall be signed by the mayor and city clerk, and shall be delivered to and countersigned by the treasurer, who shall receive and deposit the proceeds therefrom to the credit of the proper fund, to be used only for the purpose for which said money was borrowed. A record of said bonds shall be kept as provided by general law and no bond or other obligation shall be disposed of at less than its par value. All such bonds or other obligations and the interest thereon¹⁰ shall be a valid liability against the city and the credit of the city is pledged for the payment of the same. ¹¹All such bonds shall be in serial form maturing in substantially equal amounts annually in each year subsequent to the date of issue; and may be registered or coupon and shall be payable at the office of the city treasurer or at such bank, banking house or trust company as the common council may direct; and no such bonds which are payable in instalments shall be refunded, but provision shall be made for the payment of each instalment and accrued interest in the year in which it shall become due by the insertion of the proper sum in the annual estimate for the year in question, and which shall be raised by tax in addition to the moneys otherwise authorized to be raised by law, with the exception of bonds issued for water purposes. Any and all bonds issued for water purposes, including such bonds reissued or refunded, shall be redeemed and the interest thereon paid out of and from the amount received from the collection of water rents, bills for the use of water and other income derived from the water works system with the exception of the amount determined necessary to redeem any maturing water bonds for the payment of which no sufficient sinking fund has been provided and in such event the provisions of sections one hundred and seven and one hun-

¹⁰ Word "thereon" substituted for word "therein."

¹¹ Sentence omitted which read: "A sinking fund shall be created on the issuance of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity." Remainder of section new.

dred and ten respecting the same may be complied with. Any and all bonds hereafter issued for water purposes, including bonds reissued or refunded, shall be in serial form and both principal and interest payable as hereinbefore indicated for other city bonds, but out of and from the funds derived from the water rents, bills for the use of water and other income derived from the water works system, but if, for any reason, the amount received from the water rents, bills for the use of water and other income derived from the water works system be insufficient to pay the interest on all such bonds and the principal of such bonds as mature during the fiscal year, then it shall be the duty of the common council to include the amount of such deficiency in its annual estimate of city expenses, and to assess, levy and collect the same from the taxable property of said city of Amsterdam in the same manner as other city expenses are assessed, levied and collected and in addition thereto. In the event it is necessary to issue bonds to provide for the supply of water and the same are in excess of the limitation of indebtedness fixed by the constitution of the state of New York,¹² the term of said bonds shall not exceed twenty years and a sinking fund shall be created on the issuing of said bonds for their redemption by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity, and the same shall be issued in compliance with the requirements of the said constitution and shall in no manner contravene the same. Any and all existing sinking funds shall be continued in the manner now provided by law and any bonds of the city or any board thereof heretofore issued and not payable in annual instalments may be refunded. Each such bond shall contain a recital that it is issued pursuant to, and in conformity with, the provisions of this section, which recital shall be conclusive evidence of its validity and of the regularity of its issue.

§ 6. This act shall take effect immediately.

CHAPTER 84

AN ACT making an appropriation for highway improvement purposes.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two hundred and seventy thousand five hundred and two dollars and thirty-five cents (\$270,502.35), being the unexpended balance of Monroe county's share from the funds derived from the second fifty million dollar bond issue for the construction of state highways in accordance with chap-

¹² Art. 8, § 10.

prescribed in rule twenty of the rules of civil practice,⁵ if the residence or place of business of such creditor, or his attorney, is known; but if unknown and cannot be ascertained after due diligence, or if such creditor is a non-resident of this state, and his attorney is dead, removed from, or cannot be found within the state, upon proof of said facts by affidavit, a judge of the court may make an order that the notice of such application be published in a newspaper designated therein, once a week for not more than three weeks, which publication shown by the affidavit of the publisher, shall be sufficient service upon such judgment creditor, of the application.

§ 2. This act shall take effect immediately.

CHAPTER 78

AN ACT to amend the highway law, in relation to the powers of certain officers and employees in the state tax department with respect to motor vehicles.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 309a
added to
L. 1909,
ch. 30.

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting a new section to follow section three hundred and nine, to be section three hundred and nine-a, to read as follows:

§ 309-a. **Powers of inspection.** Any member of the state tax commission, or any deputy or employee duly authorized by the commission, may act as inspectors or investigators of motor vehicles; and such officers or employees so authorized are declared to be peace officers within the provisions of section one hundred and fifty-four of the code of criminal procedure and shall have and may exercise all the powers of such peace officers with respect to violations of articles eleven and eleven-a of the highway law.

§ 2. This act shall take effect immediately.

⁵ Words "rule twenty of the rules of civil practice," substituted for words "section seven hundred and ninety-six and seven hundred and ninety-seven of the code of civil procedure."

CHAPTER 79

AN ACT to amend chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," in relation to the rules for the use and government of the Palisades Interstate Park.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," as last amended by chapter one hundred and sixty-eight of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

L. 1906,
ch. 170,
§ 5, as
amended by
L. 1917,
ch. 168,
amended.

§ 5. **Acquisition of lands; maintenance of park.** The said board of commissioners shall have the power to acquire, maintain and make available for use as a public park, the lands located as aforesaid, and for this purpose shall have power to take in fee or otherwise, by purchase, gift, devise or eminent domain, the said lands, or any of them and any rights, interests and easements therein, and to receive by gift, contribution or bequest moneys to be used in acquiring or improving the said lands or any of them; said board shall also have power to acquire for park purposes by gift or devise, and also by purchase when funds are hereafter made available therefor by the legislature, but not by eminent domain, any lands or rights in lands outside of the areas defined in section four; deeds of conveyance for such lands shall be made to said board of commissioners by its corporate name, and it shall be the duty of said board to preserve, care for, lay out and improve the said park and to make rules for the use and government of the same, and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;² said board shall have power also to lay out, construct and

¹ Previously amended by L. 1906, ch. 691; L. 1910, ch. 361.

² Words "and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;" new.

§§ 44, 47,
51, 52
amended.

General
power to
raise money
by taxa-
tion.

§ 4. Sections forty-four, forty-seven, fifty-one and fifty-two of title six of such chapter are hereby amended to read as follows:

§ 44. The board of trustees shall have power and it shall be their duty to raise annually by taxation upon the taxable inhabitants of the village and the property therein liable to taxation, such a sum of money as they shall deem proper, but not to exceed in one year an amount equal to one per centum of the value of the taxable property in said village, except as hereinafter provided, to be ascertained by the last assessment roll of said town of Richfield, said money as aforesaid to be raised and expended in carrying into effect the several powers and privileges granted and confirmed by this act. Provided however that no ordinary expenditure for any one specific act, object or purpose, or thing, shall exceed the sum of two thousand five hundred dollars.⁴

Further
sum may
be raised
by consent
of tax-
payers.

§ 47. The board of trustees, or a majority of them, may cause to be raised a further sum not exceeding two thousand dollars in any one year by general tax, provided that the consent of a majority of taxable inhabitants of said village authorized to vote, and voting at an annual or special meeting called for that purpose, be first obtained. Every ⁵ resident of said village, and a legal voter, upon whose property, or upon whom as the owner or possessor of property, a tax will be chargeable for the purpose of raising such further sum, and no other person shall be entitled to vote at such meeting. All taxes authorized to be assessed in said village in any one year shall, if practicable, be included in one assessment.

Collector
to post
notice of
readiness
to receive
taxes.

§ 51. Upon receiving the tax-roll the collector shall post notices in three public places in said village, that the said roll has been delivered to him for collection of the taxes therein contained, and that he will be ready at such place and on such days of the week to receive payment of taxes therein, and that all persons paying taxes within that period, being thirty days,⁶ will be charged only one per centum for the collection thereof.

Collection
of unpaid
taxes.

§ 52. At the expiration of the thirty days⁶ mentioned in the preceding section the collector shall then proceed to collect the uncollected taxes upon the tax-roll, in the same manner and with the same powers and duties as a town collector in the collection of taxes imposed by the board of supervisors, and shall be entitled to charge in addition to said taxes five per centum for the collection of the same, and in case any person, persons or corporations shall neglect or refuse to pay his, her or their tax, and the fees aforesaid, to levy and collect the same by distress and sale of the goods and chattels of the delinquent, and after deducting from the amount so collected his compensation to pay the residue into the treasury of the village and in all cases to take the treasurer's receipt therefor.

§§ 54, 55
repealed;
new
§§ 54, 55
added.

§ 5. Sections fifty-four and fifty-five of title six of such chapter are hereby repealed and such chapter is hereby amended by in-

⁴ Formerly "five hundred dollars."

⁵ Word "male" omitted.

⁶ Words "thirty days" substituted for words "two weeks."

serting therein in the place thereof new sections, to be sections fifty-four and fifty-five, to read, respectively, as follows:

§ 54. If a tax or assessment upon real property be returned by the collector as unpaid, the board of trustees may direct the treasurer to sell an interest in such property for the unpaid tax in the manner herein prescribed. If such sale be directed, the clerk shall deliver to the treasurer a certified copy of the assessment upon such property, and all entries relating thereto and the treasurer shall thereupon proceed to sell at public auction an estate in such property for the shortest period not exceeding fifty years, for which any person will take such property, and pay the tax, percentage and interest due, together with the expenses of the sale, which shall include the notice of sale and one dollar for the services of the treasurer. Notice of such sale, containing a brief description of such property and the time and place of such sale, shall be published in the official newspaper once in each week for at least four consecutive weeks, posted in at least five conspicuous places and a copy thereof served on the owners of such property at least three weeks before the sale. All such sales shall be for cash and upon payment the treasurer shall deliver to the purchasers a certificate of sale, duly acknowledged, stating the amount paid, the date of sale and a description of the property sold.

Notice of
sale.

Certificate
of sale;
delivery,
contents.

§ 55. Any such certificate may be recorded in the office of the clerk of each county in which any part of such property is situated and if so recorded within two years after the tax became a lien on the property shall have the same effect as the recording of a deed, and give the certificate priority over every interest therein or lien thereon acquired subsequent to the lien of the tax; but unless such certificate is so recorded it shall be void as to such other interest or lien. Upon the receipt and recording of any such certificate, the purchaser of such certificate or his assignee shall be entitled to immediate possession and enjoyment of such real property, as against all persons having any title to, interest in or lien upon such property, and to retain such possession during the existence of the estate purchased, unless such property be redeemed from such sale. The purchaser or other owner may enforce his right to possession by summary proceedings in the same manner as between a landlord and tenant holding over after expiration of term. If there be no other bidder the village may bid in the property for the village for the term of fifty years and have the same rights as the purchaser of any such certificate. The owner or his assigns may redeem from any such sale by depositing with such treasurer the amount paid by the purchaser together with interest thereon at the rate of ten per centum to the time of such payment and the fees paid to the county clerk for recording such certificate. Upon payment to such treasurer, he shall issue a certificate thereof, duly acknowledged, and the recording of such certificate shall effect a cancellation of such certificate of sale.

Recording
certifi-
cates;
effect.

Rights of
purchaser.

When vil-
lage to
bid in
property.

Redemption
by owner.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings "rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings "rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings "rela-
tive to
special
election,
legalized.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

Pending
actions.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 59

AN ACT to amend chapter one hundred and sixty-two of the laws of nineteen hundred and ten, entitled "An act in relation to the municipal commission and the police, fire, sewer, water and light departments of the village of Herkimer, and repealing certain acts relating thereto," in relation to the amounts which may be stated and estimated by the municipal commission and raised by tax in any one year.

Became a law February 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1910,
ch. 163,
§ 13,
subd. 6, as
amended by
L. 1917,
ch. 350,
amended.

Section 1. Subdivision six of section twelve of chapter one hundred and sixty-two of the laws of nineteen hundred and ten, entitled "An act in relation to the municipal commission and the police, fire, sewer, water and light departments of the village of Herkimer, and repealing certain acts relating thereto," as amended by chapter two hundred and fifty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

Report of
amounts
necessary
for next
fiscal
year.

6. An estimated statement of the amount necessary to defray the cost of the police department for the next fiscal year; of the amount necessary to defray the cost of the fire department for the next fiscal year; and of the amount necessary to defray the expenses of the sanitary sewer system and department during the next fiscal year, which amounts shall not exceed in the aggregate the sum of twenty-five thousand dollars¹ in any one year; the estimated deficiency in the amount necessary to pay the principal and interest of the water bonds and the electric light bonds, or the expenses of the commission, during the next fiscal year, other than those of the police, fire and sanitary sewer departments, after applying thereto the probable amount of electric current and water rents or other income to be received and any amount available from the sinking fund.

§ 13, as
amended
by L. 1917,
ch. 350,
amended.

§ 2. Section thirteen of such chapter, as amended by chapter two hundred and fifty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

Amount
estimated
to be
raised by
tax and
credited
to various
funds.

§ 13. The board of trustees of the village of Herkimer shall place the amounts so stated and estimated by said commission, not, however, exceeding in the aggregate the sum of thirty-five thousand dollars,² in any one year, in the village budget and tax assessment as part of the ordinary expenses of said village and raise the same by tax, and on the draft or order of said commission the treasurer of the village shall pay such sums and amounts so estimated and raised, over to said municipal commission, and the amount so estimated to defray the cost of the police department shall be placed, by said commission, in and to the credit of the police department fund, and the amount so

¹ Formerly "fifteen thousand dollars."

² Formerly "twenty-five thousand dollars."

estimated to defray the cost of the fire department shall be placed by said commission to the credit of the fire department fund, and the amount so estimated to defray the cost of the sanitary sewer system shall be placed by said commission in, and to the credit of, the sewer department fund, and the balance so estimated and raised shall be placed by said commission in, and to the credit of, the general fund.

§ 3. This act shall take effect immediately.

CHAPTER 60

AN ACT to amend the benevolent orders law, in relation to Knights of Malta and Dames of Malta.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter eleven of the laws of nineteen hundred and nine, entitled "An act relating to benevolent orders, constituting chapter three of the consolidated laws," as last amended by chapter one hundred and eighty-three of the laws of nineteen hundred and fifteen, is hereby amended by adding thereto two new subdivisions, to be subdivisions twenty-seven and twenty-eight, to read as follows:

Subds. 27,
28 added to
L. 1909,
ch. 11,
§ 2.

27. A commandery of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta;

28. A sisterhood of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta;

§ 2. Section seven of such chapter, as last amended by chapter three hundred and fifty-one of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

§ 7, as
amended by
L. 1917,
ch. 351,
amended.

§ 7. **Joint corporations.** Any number of masonic bodies within the state, chartered by the grand lodge of Free and Accepted Masons of the State of New York, the grand chapter of Royal Arch Masons of the State of New York, the grand council of Royal and Select Masters of the State of New York, the grand commandery of Knights Templar of the State of New York, the supreme council of the Ancient and Accepted Scottish Rite for the Northern Masonic jurisdiction, United States of America, or the imperial council of the Ancient Arabic Order of Nobles of the Mystic Shrine for North America; any subordinate courts or other bodies of the Foresters of America, instituted, established or authorized by the supreme or a grand court thereof; any lodges,

¹ Previously amended by L. 1910, ch. 145; L. 1914, ch. 509; L. 1915, ch. 492.

encampments and cantons within the state chartered by the grand lodge of the Independent Order of Odd Fellows, the Grand Encampment or by the sovereign grand lodge of the Independent Order of Odd Fellows; any Rebekah lodges under the control and direction of the general assembly of Rebekah lodges of the state of New York, chartered by the grand lodge of the Independent Order of Odd Fellows of the state of New York or by the sovereign grand lodge of the Independent Order of Odd Fellows; any lodges or other bodies of the Knights of Pythias, duly chartered by and installed according to the general rules and regulations of the grand lodge of Knights of Pythias of the State of New York, any post of the Grand Army of the Republic chartered and installed according to the regulations of that organization; any lodges or other bodies of the Benevolent and Protective Order of Elks duly chartered by and installed according to the regulations of that organization, any lodges or other bodies of the Deutcher Orden der Harugari, duly chartered and installed according to the general rules and regulations of the grand lodge of the Deutcher Orden der Harugari of the State of New York, or of the sovereign grand lodge of the Deutcher Orden der Harugari of the United States, any councils or other bodies of the Knights of Columbus chartered and instituted by the national council of the Knights of Columbus pursuant to the charter, constitution and laws of said order, any tribe or other bodies of the Improved Order of Red Men chartered and instituted according to the constitution, general rules and regulations of the Improved Order of Red Men of the State of New York; any commanderies of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta; any sisterhoods of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta,² and any number of trades unions, trades assemblies, trades associations or labor organizations, and any number of subordinate lodges, tribes or other bodies of any benevolent or fraternal order or society incorporated under and pursuant to the laws of this state, may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting, and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form

² Words "any commanderies of the Knights of Malta, chartered by and instituted according to the general rules and regulations of the Supreme Grand Commandery of the Ancient and Illustrious Order of Knights of Malta; any sisterhoods of the Dames of Malta, Ladies of the Order of Saint John, Ancient and Illustrious Order, Knights of Malta, Continent of America, chartered by and instituted according to the general rules and regulations of the Zenodacia of the Dames of Malta," new.

such corporation shall, at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof for a term of either one, two or three years, as the rules, regulations and by-laws of the body may prescribe, to represent it in such corporation.

If the bodies uniting to form such corporation, do not exceed thirty in number, then each representative so elected shall be a trustee of said corporation, and shall make and file in the office of the clerk of the county where such building is, or is to be located, a certificate of such election signed and acknowledged by the highest two officers of the body electing him, stating the time and place of the election, its regularity, the name of the trustee, and the name of the body from which he was elected. If the bodies uniting to form such corporation shall exceed thirty in number then the representatives elected as hereinbefore provided, shall assemble annually at a time and place fixed by the constitution, by-laws, rules and regulations of the corporation, and shall elect from amongst themselves a president, vice-president, secretary and treasurer, each of whom shall be ex-officio trustees of the corporation, and not less than nine nor more than twenty-four other trustees. In case only two bodies unite to form such corporation, the number of trustees to be elected from each body shall not be less than one or more than three, who shall be elected in the manner above prescribed and whose certificate of election shall be made and filed in the manner and form above prescribed.

The trustees so elected shall make, acknowledge and file with the secretary of state a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate.

§ 3. This act shall take effect immediately.

CHAPTER 61

AN ACT to amend the insurance law, in relation to publication of notice of intention to extend the term of charter of mutual fire insurance corporations.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-six of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as amended by chap-

L. 1909,
ch. 83,
§ 126, as
amended
by L. 1921,
ch. 137,
amended.

ter two hundred and thirty-seven of the laws of nineteen hundred and twenty-one, is hereby further amended to read as follows:

§ 126. **Extension of term of charter of mutual corporations.** Every domestic mutual fire insurance corporation may at any time within two years previous to the termination of its charter, after giving notice once a week for six successive weeks¹ in a newspaper published in the county where such corporation is located of such intention, and with a declaration, under its corporate seal, signed by its president and two-thirds of its directors, of their desire for such extension, extend the term of its original charter for a period of thirty years, by altering and amending the same so as to accord with the provisions of this chapter, and filing a copy of such amended charter and declaration in the office of the superintendent of insurance; whereupon the same proceedings shall be had as are required upon the formation of a mutual fire insurance corporation under this article, except that no examination of the condition and affairs of such corporation shall be required unless so ordered by the superintendent, which proceedings shall be certified to be in accordance with the provisions of this section. Every corporation so extended shall come under the provisions of this chapter in the same manner as if it had been incorporated originally thereunder. Every fire insurance corporation which has heretofore changed from a mutual to a joint-stock corporation, pursuant to the provisions of law, shall be deemed and be held by such change to have continued and extended its charter for the period named therein, not exceeding thirty years from the time of such change.

§ 2. This act shall take effect immediately.

CHAPTER 62

AN ACT to legalize, validate and confirm a sale, made by public auction in the city of Utica on the twenty-eighth day of April, nineteen hundred and twenty-one, by direction of the commissioners of the land office, under the provisions of the public lands law, of certain abandoned Mohawk river channel lands in such city, and to authorize the commissioners of the land office to execute and deliver to the purchaser a quit-claim deed of such lands.

Became a law March 2, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceedings
of com-
missioners
of land
office,
legalized.

Section 1. All acts and proceedings of the commissioners of the land office, their employees and agents, leading up to and including a sale, under the provisions of the public lands law and a resolution adopted by such commissioners on the second day of March, nineteen hundred and twenty-one, at public auction, on the twenty-eighth day of April, nineteen hundred and twenty-one, in the city of Utica, for the sum of four thousand and

¹ Words "once a week for six successive weeks" substituted for words "twice a week for three weeks successively."

forty-seven dollars, of the property described in section two of this act, are hereby legalized, validated and confirmed, notwithstanding any defect, irregularity or omission in such acts or proceedings or any failure on the part of the commissioners of the land office to comply with any lawful requirement of the public lands law, and in particular, notwithstanding the failure to publish notice of the time, place and conditions of sale of such property at least once a week for at least eight weeks, successively, before the sale, such notice having been published but once a week for five successive weeks before such sale.

Notwith-
standing
irregulari-
ties.

§ 2. The commissioners of the land office are hereby authorized and directed, in consideration of the payment heretofore made by the purchaser to the state of the said sum of four thousand and forty-seven dollars, to execute and deliver to the purchaser at such sale a quit-claim deed, in the usual form, of the following described lands, being the lands so advertised and sold and for which the purchaser has made such payment to the state:

Commis-
sioners of
land office
directed to
execute and
deliver
quit-claim
deed.

All that tract or parcel of land situate, lying and being in the city of Utica, county of Oneida, state of New York, bounded and described as follows:

Descrip-
tion of
lands.

Beginning at a monument, said monument being at right angles to and one hundred and ninety-four and fifty-one one-hundredths feet southerly from station ten plus thirty-two and twenty-eight one-hundredths of the Utica terminal channel center line; thence south sixty-two degrees twenty-eight minutes west one hundred and sixty-one and seventy-eight one-hundredths feet; thence south four degrees twenty-two minutes west six hundred and seventy-one and ninety-eight one-hundredths feet; thence south twelve degrees sixteen minutes west seven hundred and ninety-seven and sixty-one one-hundredths feet; thence south twenty-nine degrees twenty-five minutes west six hundred and fifty-four and seventy-three one-hundredths feet; thence south thirty-six degrees fifty-nine minutes west one hundred and eighty-seven and sixty-three one-hundredths feet; thence south thirty degrees fifty-seven minutes west five hundred and ninety-seven and seventy-eight one-hundredths feet; thence south thirty-one degrees thirty-seven minutes west eighty-seven feet; thence north sixty-six degrees nine minutes west ninety-eight and ninety-one one-hundredths feet; thence north thirty-one degrees thirty-seven minutes east about seven hundred and four feet to a point on the easterly bank of the Mohawk river; thence down along the easterly bank of said river and westerly bank of the Utica terminal channel about three thousand feet; thence north fifty-three degrees thirty-nine minutes west about one hundred and fifty-five feet to the place of beginning, containing seven and nine hundred and five thousandths acres more or less.

All bearings are referred to the true meridian.

§ 3. The quit-claim deed provided for in this act shall recite that it is made and executed pursuant to the provisions of the public lands law and of this act, describing this act by its chapter number and the year of its enactment.

Recitals in
quit-claim
deed.

§ 4. This act shall take effect immediately.

CHAPTER 63

AN ACT to amend section fifty-six of the judiciary law, relative to the state board of law examiners.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 85,
§ 56
amended.

Section 1. Section fifty-six of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," is hereby amended to read as follows:

§ 56. **Appointment and compensation of state board of law examiners.** The members of the state board of law examiners shall be appointed from time to time, by the court of appeals, as provided in section four hundred and sixty-one of this chapter. The court of appeals shall fix the compensation of the members of the said board; ¹ and may provide and furnish proper and suitable quarters for said board in the court of appeals hall or authorize it to procure the same elsewhere in the city of Albany; and may authorize said board to appoint and remove a clerk, a stenographer and other necessary employees whose compensation shall be fixed by the court. All such compensation and expenses shall be paid by order of the court out of the receipts of said board from fees collected to cover the cost of examinations for admission to practice as hereinafter provided.

§ 2. This act shall take effect immediately.

CHAPTER 64

AN ACT in relation to application to the court for an order directing the manner in which gifts, grants, devises or bequests to Lowville Academy shall be administered or expended.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Where circumstances shall have so changed as to render impracticable or impossible a literal compliance with the terms of an instrument or instruments, heretofore or hereafter executed, containing gifts, grants, devises or bequests to Lowville Academy, in the village of Lowville, Lewis county, for educational uses or purposes, the trustees of such academy or property shall apply to the supreme court, under the provisions of subdivision two of section one hundred and thirteen of the real property law or subdivision two of section twelve of the personal property law, or both, depending upon the nature of the said

¹ Remainder of section new.

instrument or instruments, for an order directing the manner in which the gifts, grants, devises or bequests shall be administered or expended, or if such application be not made within three months after this act takes effect, the state commissioner of education shall investigate and if he finds to his satisfaction that a proper case for such application by such trustees exists, he shall make such application, and the said court may, upon such application being made by such trustees or commissioner of education and upon such notice as the court shall direct, make an order directing that such gifts, grants, devises or bequests shall be administered or expended in such manner as in the judgment of the court will most effectually accomplish the general purpose of the said instrument or instruments, without regard to and free from any specific restriction, limitation or direction contained therein; provided, however, that no such order shall be made without the consent of the donor or grantor of the property, if he be living.

§ 2. This act shall take effect immediately.

CHAPTER 65

AN ACT to amend the town law, in relation to town contracts for lighting improved highways or bridges.

Became a law March 2, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article twelve of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," is hereby amended by adding a new section, to be section two hundred and sixty-five, to read as follows:

§ 265. **Town contracts for lighting improved highways or bridges.** The town board of any town, without establishing a lamp or lighting district as provided by this article and without a petition as required by section two hundred and sixty-one, may contract for the lighting of such improved highways or such bridges in the town outside of villages and cities, as the board deems needed for the safety or convenience of the public. Such contract shall be upon such terms and for such time or period, not exceeding five years, as the board deems proper or expedient. The amount payable annually thereunder shall be a town charge and shall be paid from the surplus money of the town, or if such surplus be insufficient, the town board may cause not exceeding one thousand dollars in any year to be assessed, levied and collected for such purpose at the same time and in the same manner as other town charges. Lighting may be contracted for pursuant to this section in addition to lighting contracted for on account of a lighting district or districts within the town.

§ 2. This act shall take effect immediately.

CHAPTER 66

AN ACT to validate bonds of the village of Babylon, Suffolk county, state of New York, to be issued for the payment of the cost of improving certain streets and avenues therein by constructing and building thereon concrete roads or pavements, and to legalize proceedings relating thereto.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings rela-
tive to
special
election,
legalized.

Bonds
validated.

This act
authority
for sale.

Tax for
payment.

Pending
actions.

Section 1. All the acts done, and proceedings had, by the residents, taxpayers, officers and agents of the village of Babylon, Suffolk county, state of New York, before, during and after the special village election held in and for such village on the ninth day of September, nineteen hundred and twenty-one, at which election the issuance of bonds to the amount of one hundred and twenty thousand dollars was authorized, the proceeds of the sale of such bonds to be used for the purpose of improving by constructing and building concrete roads or pavements on certain parts of Main street, Railroad avenue, Deer Park avenue and Fire Island avenue in said village, as set forth in the notice of election, are hereby legalized, ratified and confirmed, and the bonds of such village to be issued, as thus authorized, are hereby declared to be, and shall be, the valid and subsisting obligations of such village, notwithstanding any error or omission in any action or proceeding so taken, and this act without reference to any other law shall be full authority to the village trustees to sell such bonds, and all of the same, in such manner as they shall deem for the best interests of such village, but for not less than the par value thereof, and at a rate of interest not greater than five per centum per annum.

§ 2. There shall be raised annually by tax upon all taxable property in the village of Babylon a sum sufficient to pay the principal and interest on said bonds as the same shall become due.

§ 3. This act shall take effect immediately, but shall not affect any action or proceeding pending in any court at the time it takes effect.

CHAPTER 67

AN ACT to amend the code of criminal procedure, in relation to compulsory maintenance of children by parents.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 921
amended.

Section 1. Section nine hundred and twenty-one of the code of criminal procedure is hereby amended to read as follows:

§ 921. Parents leaving their children chargeable to the public, how proceeded against.

a. When the father, or the mother being a widow or living separate from her husband, absconds from the children, or a husband from his wife, leaving any of them chargeable or likely to become chargeable upon the public, the officers mentioned in section nine hundred and fourteen may apply to any two justices of the peace or police justices in the county in which any real or personal property of the father, mother or husband is situated, for a warrant to seize the same. Upon due proof of the facts, the magistrate must issue his warrant, authorizing the officers so applying to take and seize the property of the person so absconding.

b. Whenever any child shall be committed to an institution pursuant to any provision of law, any criminal court or magistrate may issue a summons or warrant for a parent of the child or any other person required by law to maintain or support such child, and examine into his or her ability to maintain such child in whole or in part; and if satisfied that such parent or other person is able to contribute toward the support of the child, then such court or magistrate shall, by order, require the weekly payment by such parent or other person of such sum and in such manner as shall be in said order directed, towards the maintenance of such child in such institution, which amount when paid shall be credited by the institution to the city, town or county against any sums due to it therefrom on account of the maintenance of the child. ¹ In case any city, town or county shall have paid any sums to any such institution on account of the maintenance of such child on the request in writing of the officers in charge of the administration of the poor law for such city, town or county, such criminal court or magistrate may at any time within five years after such payment issue a summons or warrant, as above, for the parent, or other person required by law to maintain or support such child, may examine into his or her ability to maintain such child, in whole or in part, and may make an order for the repayment to such city, town or county, in whole or in part, of the sums so expended by it on account of the maintenance of such child.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

¹ Following sentence new.

CHAPTER 68

AN ACT to amend the education law, in relation to the estimated expenditures for the supreme court library at Plattsburgh.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 21
(revision
of L. 1910,
ch. 140),
§ 1184, as
added by
L. 1919,
ch. 61,
amended.

Section 1. Section eleven hundred and eighty-four of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such section being added by chapter sixty-one of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 1184. **Supreme court library at Plattsburgh.** There is hereby established a law library in and for the fourth judicial district, in the city hall of the city of Plattsburgh, in the county of Clinton. Such library shall be designated the supreme court library in the county of Clinton. Such library shall be under the care and management of a board of five trustees who shall be members of the Clinton county bar and who shall be selected by the justice of the supreme court residing in Clinton county or in case no such justice be a resident of Clinton county, by the justices of the fourth judicial district. Such trustees shall have power to receive by gift, devise or bequest any property given or conveyed for the purposes of the law library. Upon the passage of this act, there shall be appointed in the manner above prescribed one member of such board of trustees who shall serve until the thirty-first day of December, nineteen hundred and twenty-four; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-five; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-six; one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-seven, and one member who shall serve until the thirty-first day of December, nineteen hundred and twenty-eight. At the expiration of such term there shall be appointed in the manner above prescribed successors to such trustees each of whom shall serve for ten years and until his successor shall be appointed. The board of trustees shall make rules and regulations for the management and protection of such library and prescribe penalties for the violation thereof. They may sue for and recover for such penalties and may maintain actions for any injury to such library or its property. They may procure proper furniture and equipment for such library and incur all incidental expenses for the care and management thereof, including the proper insurance thereof, and employ and appoint such persons as they may deem necessary for the proper care, management and maintenance of such library.

The amounts required therefor shall be paid by the treasurer of the county of Clinton upon the certificate of the chairman of such board of trustees out of moneys raised in such county for court expenses which amounts shall be a charge upon the county of Clinton. ¹ The board of trustees of said library shall submit to the board of supervisors of the county of Clinton, at its regular annual meeting, an itemized estimate of the amounts which will be required for furniture and equipment and for the care, management and incidental expenses of said library, including the salary of the librarian for and during the ensuing calendar year, the amount of which estimate shall be included in the amount to be raised in said county for court expenses for such ensuing year.

§ 2. This act shall take effect immediately.

CHAPTER 69

AN ACT to amend the insurance law, in relation to proceedings against and the liquidation of delinquent insurance corporations.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section sixty-three of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter three hundred of the laws of nineteen hundred and nine, such subdivision having been last amended by chapter one hundred and nineteen of the laws of nineteen hundred and eighteen,^{1a} is hereby amended to read as follows:

1. Whenever any domestic corporation (a) is insolvent; or (b) has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the superintendent, or his deputy or examiner; or (c) has neglected or refused to observe an order of the superintendent to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall have become impaired; or (d) has, by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other corporation, association, society or order, without having first obtained the written approval of the superintendent; or (e) is found, after an examination, to be in such condition that its further transaction

L. 1909, ch. 33, § 63, subd. 1, as added by L. 1909, ch. 300, and amended by L. 1918, ch. 119, amended.

Application for order to show cause against delinquent corporation.

¹ Following sentence new.

^{1a} Previously amended by L. 1910, ch. 634; L. 1911, ch. 366; L. 1912, ch. 217.

of business will be hazardous to its policyholders, or to its creditors, or to the public; or (f) has willfully violated its charter or any law of the state; or (g) whenever any officer thereof has refused to be examined under oath touching its affairs; or (h) if such corporation be organized under article five-a, six, seven, eight, ten-a or ten-b of this chapter, its condition is found, after examination, to be such that it could not meet the requirements for incorporation and authorization specified in such articles respectively; or (i) if such corporation has ceased to transact the business of insurance for a period of one year; or (j)² commences voluntary liquidation or dissolution or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs or to dissolve its corporate charter or to procure the appointment of a receiver, custodian or sequestrator under any law except this chapter; or (k)³ if an application is made for the appointment of a receiver, custodian or sequestrator of the corporation or its property, or a receiver, custodian or sequestrator is appointed by a federal court or such appointment is imminent; or (l)⁴ on consent of a majority of the directors, stockholders or members, the superintendent may, the attorney-general representing him, apply to the supreme court or any justice thereof in the judicial district in which the principal office of such corporation is located for an order directing such corporation to show cause why the superintendent should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

§ 62,
subd. 11,
as added by
L. 1911,
ch. 286,
and renum-
bered by
L. 1912,
ch. 217,
amended.

§ 2. Subdivision eleven of section sixty-three of such chapter, as added by chapter three hundred of the laws of nineteen hundred and nine, such subdivision being added by chapter three hundred and sixty-six of the laws of nineteen hundred and eleven and thus renumbered by chapter two hundred and seventeen of the laws of nineteen hundred and twelve, is hereby amended to read as follows: ⁵

Service of
order to
show cause
in pro-
ceedings
against and
liquidation
of delin-
quent cor-
porations.

11. The order to show cause and the papers upon which the same is made in any proceeding instituted under the provisions of this section shall be served upon the corporation named in such order, if it be a domestic corporation, by delivering to the president or other head of the corporation, the secretary or clerk to the corporation, the cashier, the treasurer or a director or managing agent; if it be a foreign corporation, by delivering to the president, vice-president, treasurer or assistant treasurer, secretary or assistant secretary, director or managing agent, or if the corporation lack any of those officers within the state, to the officer performing corresponding functions under another name; if it be a voluntary, unincorporated or a joint stock association, order or society, by delivering to the president, vice-president,

² Subd. (j) new.

³ Subd. (k) new.

⁴ Subd. (l) was formerly subd. (j).

⁵ Subd. 11 materially amended.

treasurer, director, trustee or other officer or a member with managerial powers; if it be a Lloyds association, by delivering to the duly designated attorney-in-fact, a true copy of said order to show cause and the papers upon which it was granted and leaving the same with any such person within the state. When it is satisfactorily proved by the report of an examiner of the insurance department made in accordance with the provisions of section thirty-nine of this chapter or by affidavit that the officers, directors, trustees or managing agents or members of the corporation, association, order or society named in said order to show cause, upon whom service is required to be made as above provided, or, if a Lloyds association be named in the order to show cause, that the duly designated attorney-in-fact, have departed from the state or keep themselves concealed therein or if such of the persons residing in this state and upon whom service is required to be made as above provided have resigned from their offices within forty days prior to the application for an order to show cause under the provision of this section, or that service cannot be made immediately by the exercise of reasonable diligence, such order to show cause may provide for service thereof in such manner as the court or justice by whom the same is made, shall direct.

§ 3. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect immediately.

CHAPTER 70

AN ACT to detach a portion of the town of Lisbon, Saint Lawrence county, therefrom, and to annex the same to the town of Oswegatchie, in such county.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All that part or portion of the town of Lisbon in the county of Saint Lawrence bounded and described as follows: Beginning at a point in the center of the Saint Lawrence river where the same is intersected by the westerly line of the town of Lisbon projected northerly; running thence northeasterly along the center of said river to a point where said center is intersected by a line from a point in the southerly margin of said river where the same is intersected by the westerly margin of Tibbit's creek that will pass forty-five feet southerly from the southerly low water margin of Chimney island; thence along said line to said point at Tibbit's creek; thence along the westerly margin of said creek to a point situate nine hundred feet southerly from the southerly line of the Boulevard or Proctor avenue or an easterly continuation thereof; thence westerly on a line nine hundred feet distant at right angles from and parallel with said southerly line to the

Certain described portion of town of Lisbon annexed to town of Oswegatchie.

westerly line of the town of Lisbon, and thence northerly along said westerly line projected to the place of beginning; being all that portion of the lands of the Saint Lawrence State Hospital in said town of Lisbon lying within the corporate bounds of the city of Ogdensburg; shall be, and the same hereby are, detached from said town of Lisbon, and shall thereafter become and be a part of the town of Oswegatchie in said county of Saint Lawrence.

Town of
Lisbon not
relieved
from obli-
gations in-
curred.

§ 2. The town of Lisbon shall not be relieved from any obligation or liability, if any, incurred on account of such detached territory being a part thereof prior to the time this act takes effect.

§ 3. This act shall take effect immediately.

CHAPTER 71

AN ACT to authorize the village of Ocean Beach, in the county of Suffolk, to acquire, lease or charter, to maintain and operate ferries and borrow money to acquire or purchase ferries.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The village of Ocean Beach, in the county of Suffolk, may acquire, lease or charter, provide, maintain and operate a ferry or ferries, together with the necessary terminals, for the transportation of passengers, express matter and freight or either of them, between said village and the main land of Long Island, across the Great South bay, during such portions of the year and charging such rates for service as it may deem advisable, and may, upon the adoption of a proposition therefor, borrow money, as provided by section one hundred and twenty-eight of the village law, for the purpose of acquiring any existing ferry or ferries and terminals or either of them, or purchasing a suitable ferry or ferries and terminals or either of them, provided the amount proposed to be paid therefor is stated in such proposition.

§ 2. This act shall take effect immediately.

CHAPTER 72

AN ACT to amend chapter five hundred and nine of the laws of eighteen hundred and eighty-four, entitled "An act to amend and consolidate the several acts in relation to the village of Richfield Springs," generally.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-five of title three of chapter five hundred and nine of the laws of eighteen hundred and eighty-

L. 1884,
ch. 509,
§ 25
amended.

four, entitled "An act to amend and consolidate the several acts in relation to the village of Richfield Springs," is hereby amended to read as follows:

§ 25. The street commissioner shall, under the direction of the board of trustees, superintend all work required and ordered to be done or performed upon any of the streets, highways, lanes, alleys, walks, sewers and reservoirs in said village. He shall hire and employ the requisite laborers and direct them as to the time and manner of the execution of their work, and to certify weekly to said board all persons who shall have been employed by him and the amount paid each person per day. He shall, within the said village, possess the power and perform the duties of overseers of highways, so far as such powers and duties are required to be performed therein, and consistent with this act. He shall keep an accurate account of all moneys expended by him, and shall, at least ten days before the annual election, and at such other times as the board of trustees shall require, render to said board a statement, under oath, setting forth the amount of work done, and when and where done, the amount of money received and paid out, together with the vouchers thereof; and the street commissioner shall receive for his services such sum as the board of trustees shall direct, ¹ for every day actually engaged ² in the performance of his duties, to be paid out of the general highway fund. The pound-master, fire-wardens and other officers appointed by the board of trustees shall perform such duties and possess such powers and be subject to such liabilities as shall be prescribed by the board of trustees.

Street
commis-
sioner;
powers
and
duties.

Pound-
master,
fire-
wardens,
etc.,
duties.

§ 2. Section twenty-nine of title four of such chapter is hereby amended by inserting therein, after subdivision fourteen, a new subdivision, to be subdivision fourteen-a, to read as follows:

Subd. 14a
added to
§ 29.

14-a. The board of trustees may, by a majority vote, adopt an ordinance to be known as the building code, which shall provide therein rules and regulations for the construction, alteration, removal and inspection of all buildings or structures erected or to be erected within the limits of such village, providing therein and regulating thereby the plans and means of all such construction, alteration or removal of all of such buildings and structures.

Trustees
may adopt
building
code.

§ 3. Section thirty-seven of title four of such chapter is hereby amended to read as follows:

§ 37
amended.

§ 37. The board of trustees shall have power to restrain, regulate or prevent hawking and peddling in the streets; to regulate, restrain or prohibit sales by auction and grant licenses to peddlers and auctioneers, and fix the amount to be paid therefor; to regulate the use and running of all hacks, automobiles,³ public carriages or vehicles for the conveyance of passengers, baggage or movables of any kind for hire through the public streets; to designate their places of waiting and grant a license to the owners or proprietors thereof and fix the amount to be paid for the same.

Regula-
tion of ped-
dling,
auctions,
hacks, etc.

¹ Words "not exceeding one dollar and fifty cents per day," omitted.

² Word "engaged" substituted for word "spent."

³ Word "automobiles" new.

§§ 44, 47,
51, 52
amended.
General
power to
raise money
by taxa-
tion.

§ 4. Sections forty-four, forty-seven, fifty-one and fifty-two of title six of such chapter are hereby amended to read as follows:

§ 44. The board of trustees shall have power and it shall be their duty to raise annually by taxation upon the taxable inhabitants of the village and the property therein liable to taxation, such a sum of money as they shall deem proper, but not to exceed in one year an amount equal to one per centum of the value of the taxable property in said village, except as hereinafter provided, to be ascertained by the last assessment roll of said town of Richfield, said money as aforesaid to be raised and expended in carrying into effect the several powers and privileges granted and confirmed by this act. Provided however that no ordinary expenditure for any one specific act, object or purpose, or thing, shall exceed the sum of two thousand five hundred dollars.⁴

Further
sum may
be raised
by consent
of tax-
payers.

§ 47. The board of trustees, or a majority of them, may cause to be raised a further sum not exceeding two thousand dollars in any one year by general tax, provided that the consent of a majority of taxable inhabitants of said village authorized to vote, and voting at an annual or special meeting called for that purpose, be first obtained. Every ⁵ resident of said village, and a legal voter, upon whose property, or upon whom as the owner or possessor of property, a tax will be chargeable for the purpose of raising such further sum, and no other person shall be entitled to vote at such meeting. All taxes authorized to be assessed in said village in any one year shall, if practicable, be included in one assessment.

Collector
to post
notices of
readiness
to receive
taxes.

§ 51. Upon receiving the tax-roll the collector shall post notices in three public places in said village, that the said roll has been delivered to him for collection of the taxes therein contained, and that he will be ready at such place and on such days of the week to receive payment of taxes therein, and that all persons paying taxes within that period, being thirty days,⁶ will be charged only one per centum for the collection thereof.

Collection
of unpaid
taxes.

§ 52. At the expiration of the thirty days⁶ mentioned in the preceding section the collector shall then proceed to collect the uncollected taxes upon the tax-roll, in the same manner and with the same powers and duties as a town collector in the collection of taxes imposed by the board of supervisors, and shall be entitled to charge in addition to said taxes five per centum for the collection of the same, and in case any person, persons or corporations shall neglect or refuse to pay his, her or their tax, and the fees aforesaid, to levy and collect the same by distress and sale of the goods and chattels of the delinquent, and after deducting from the amount so collected his compensation to pay the residue into the treasury of the village and in all cases to take the treasurer's receipt therefor.

§§ 54, 55
repealed;
new
§§ 54, 55
added.

§ 5. Sections fifty-four and fifty-five of title six of such chapter are hereby repealed and such chapter is hereby amended by in-

⁴ Formerly " five hundred dollars."

⁵ Word " male " omitted.

⁶ Words " thirty days " substituted for words " two weeks."

serting therein in the place thereof new sections, to be sections fifty-four and fifty-five, to read, respectively, as follows:

§ 54. If a tax or assessment upon real property be returned by the collector as unpaid, the board of trustees may direct the treasurer to sell an interest in such property for the unpaid tax in the manner herein prescribed. If such sale be directed, the clerk shall deliver to the treasurer a certified copy of the assessment upon such property, and all entries relating thereto and the treasurer shall thereupon proceed to sell at public auction an estate in such property for the shortest period not exceeding fifty years, for which any person will take such property, and pay the tax, percentage and interest due, together with the expenses of the sale, which shall include the notice of sale and one dollar for the services of the treasurer. Notice of such sale, containing a brief description of such property and the time and place of such sale, shall be published in the official newspaper once in each week for at least four consecutive weeks, posted in at least five conspicuous places and a copy thereof served on the owners of such property at least three weeks before the sale. All such sales shall be for cash and upon payment the treasurer shall deliver to the purchasers a certificate of sale, duly acknowledged, stating the amount paid, the date of sale and a description of the property sold.

Notice of
sale.

Certificate
of sale;
delivery,
contents.

§ 55. Any such certificate may be recorded in the office of the clerk of each county in which any part of such property is situated and if so recorded within two years after the tax became a lien on the property shall have the same effect as the recording of a deed, and give the certificate priority over every interest therein or lien thereon acquired subsequent to the lien of the tax; but unless such certificate is so recorded it shall be void as to such other interest or lien. Upon the receipt and recording of any such certificate, the purchaser of such certificate or his assignee shall be entitled to immediate possession and enjoyment of such real property, as against all persons having any title to, interest in or lien upon such property, and to retain such possession during the existence of the estate purchased, unless such property be redeemed from such sale. The purchaser or other owner may enforce his right to possession by summary proceedings in the same manner as between a landlord and tenant holding over after expiration of term. If there be no other bidder the village may bid in the property for the village for the term of fifty years and have the same rights as the purchaser of any such certificate. The owner or his assigns may redeem from any such sale by depositing with such treasurer the amount paid by the purchaser together with interest thereon at the rate of ten per centum to the time of such payment and the fees paid to the county clerk for recording such certificate. Upon payment to such treasurer, he shall issue a certificate thereof, duly acknowledged, and the recording of such certificate shall effect a cancellation of such certificate of sale.

Recording
certifi-
cates;
effect.

Rights of
purchaser.

When vil-
lage to
bid in
property.

Redemption
by owner.

§§ 55a,
55b added.

Action to
recover
unpaid
tax.

Warrant of
attachment.

Lien of
judgment.

Execution.

Supple-
mentary
proceed-
ings.

Cemetery
commis-
sioners em-
powered to
assess
owners of
lots.

§ 6. Such chapter is hereby amended by inserting therein, after section fifty-five, two new sections, to be sections fifty-five-a and fifty-five-b, to read, respectively, as follows:

§ 55-a. After the lapse of thirty days from the return of the collector, an action may be maintained, as upon contract, by the village, to recover the amount of an unpaid tax, together with five per centum thereof, and interest from the time of such return at the rate of ten per centum per annum. A warrant of attachment against the property of the defendant may be granted upon the application of the plaintiff as provided by and under article fifty-four of the civil practice act, regardless of the amount of such tax. A judgment in such action for any amount, when docketed in the office of the county clerk, shall be a lien upon the real property of the defendant, having the same priority, as such lien, as the taxes upon which there was a recovery recovered in such action, and an execution upon the judgment may be issued and enforced against the real property of the defendant regardless of the amount of such judgment. Supplementary proceedings may also be taken for such tax in accordance with the provisions of the tax law, regardless of the amount of such judgment.

§ 55-b. The board of cemetery commissioners of such village shall have, in addition to the powers granted by section two hundred and ninety-two of the village law, the power to assess the owners of lots in any cemetery in such village an amount not exceeding two dollars per year for the purpose of raising moneys to keep the lots in such cemetery in good and proper condition, and the trustees of such village for that purpose shall have all the powers mentioned in section seventy-two of the membership corporations law.

§ 7. This act shall take effect immediately.

CHAPTER 73

AN ACT authorizing the city of Elmira to construct public school buildings and to acquire sites for such construction and to issue bonds for these purposes.

Accepted by the City.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Issuance of
public
school con-
struction
bonds,
authorized.

Section 1. The city of Elmira, by its board of education and its common council, is hereby authorized to issue from time to time pursuant to resolution duly adopted by the common council, upon receiving a certified copy of a resolution of the board of education requesting the same, the bonds of said city of Elmira in a sum not exceeding in the aggregate five hundred and fifty thousand dollars, to be known as "public school construction

bonds." Said bonds shall be signed by the president and secretary of the board of education and by the mayor and city clerk of the city of Elmira and sealed with the seal of said city and shall be of the same denomination or denominations and shall mature at such time or times and pay such rate of interest not exceeding five per centum per annum as the common council of said city shall determine and shall not be sold at less than par, provided, however, that the time fixed for the maturity of any such bonds shall not be more than thirty years from the date of issue, but nothing herein contained shall prevent the refunding of the debt created thereby or in part thereof in the manner provided by law.

Bonds;
execution,
denomina-
tion,
maturity,
etc.

§ 2. The chamberlain of the city of Elmira shall make and keep in his office a record of said bonds by number, date, amount, date or dates of maturity and the name or names of the payee of any of such bonds as may be registered. The moneys raised from the sale of said bonds shall be paid to the chamberlain of the city of Elmira and by him placed apart as a deposit and such fund to be known as the "Elmira School Construction Fund" and shall be disbursed by him upon the order of the president and secretary of the board of education.

Record of
bonds.

Elmira
School Con-
struction
Fund.

§ 3. The city of Elmira is authorized to raise by taxation in addition to all other sums now authorized by law, whatever sums may be necessary to pay the interest on said bonds and the principal at the time of the maturity thereof.

Tax for
payment.

§ 4. The board of education shall use and expend the moneys raised from the sale of said bonds, together with the interest on daily balances accruing on the unused proceeds therefrom, for the following purposes and none other:

Applica-
tion of
moneys
raised.

To erect and construct one or more public school buildings in the city of Elmira upon the site or sites to be selected by the board of education, provided, however, that said construction is to be in accordance with the requirements of the department of education of the state of New York. The board of education is hereby authorized and empowered to acquire such land as may be needed for proper and suitable sites, either by purchase, gift or condemnation or otherwise. The board of education shall cause to be prepared, plans and specifications in accordance with its determination which plans and specifications shall be approved by the New York state department of education, and thereafter advertise for proposals to carry out and execute such plans and specifications, all or any of which proposals it may reject. Any contract of said board of education executed pursuant to a resolution legally adopted by the majority of the members of the board of education shall thereafter be binding on the city of Elmira.

Construc-
tion of
school
buildings.

Acquisi-
tion of
sites.

Plans and
specifica-
tions; pro-
posals; con-
tracts.

§ 5. The board of education shall have power to do all other things which it may deem necessary to carry out the provisions of this act not inconsistent with this act and with the requirements of the educational department of the state of New York.

Powers of
board of
education.

§ 6. Any unexpended balance of the moneys of said funds hereby authorized shall be retained by the city chamberlain for

Applica-
tion of
unexpended
balance.

the period of two years and if more than one building is authorized by the board of education to be constructed, the said unexpended sum shall be applicable to the construction of said second building or the acquisition of a site or sites therefor, otherwise said unexpended balance shall be applied at the end of two years to the payment of the bonds hereby authorized.

Acquisition of lands by condemnation.

§ 7. If for any reason the lands necessary for said building or buildings cannot be acquired by purchase, the board of education is authorized to acquire the same by condemnation in accordance with the provisions of the condemnation law.¹

§ 8. This act shall take effect immediately.

CHAPTER 74

AN ACT to amend the charter of the city of Cortland, in relation to the maximum amount of annual city tax levy.

Accepted by the City.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1900, ch. 160, § 58, subd. 8, as amended by L. 1917, ch. 123, amended.

Tax for general city fund.

Aggregate annual levy.

Additional amounts.

Section 1. Subdivision eight of section fifty-three of chapter one hundred and sixty of the laws of nineteen hundred, entitled "An act to incorporate the city of Cortland," as amended by chapter one hundred and twenty-three of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

8. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated as the general city fund. The aggregate for the annual tax levy for all purposes in this section above provided exclusive of the school fund² shall not exceed the rate of one per centum of the assessed valuation of the real and personal property liable to taxation in said city, as the same shall appear from the assessment roll of said city for the current year. In addition to the amounts which shall be included in the annual tax levy for the foregoing purpose, there shall be included such amount as shall be necessary to meet the principal and the interest on the bonded and other indebtedness of the city falling due during the fiscal year for which the tax is levied, and to meet all indebtedness remaining unpaid on all judgments against the city; and such further sums as shall have been voted at a regular city election, or at a special city election called for the purpose, and also for such other sums as the common council is authorized to expend for purposes specified in this act.

§ 2. This act shall take effect immediately.

¹ L. 1920, ch. 923.

² Words "school fund" substituted for words "public works fund and the lighting fund."

CHAPTER 75

AN ACT to revive and extend the corporate existence of Carthage Machine Company, and legalize the acts of its directors, as trustees.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The corporate existence of the Carthage Machine Company is hereby revived and the said Carthage Machine Company is hereby declared to be a valid corporation with the same force and effect as the same existed on the seventh day of January, nineteen hundred and twenty, and prior to the expiration of the period for which said corporation was created; with all the powers, privileges, franchises, and subject to the same duties, obligations and restrictions in respect to such powers under the laws of this state in force on or before the seventh day of January, nineteen hundred and twenty, which were conferred and imposed in respect to said corporation, and with the same force and effect as if the said corporate existence and organization had been extended according to law prior to the said seventh day of January, nineteen hundred and twenty, and before the expiration of the period of time for which said corporation was created; and the acts of the directors of said corporation, acting as trustees, between the seventh day of January, nineteen hundred and twenty, and the time this act takes effect are hereby legalized, ratified and confirmed.

Corporate
existence
revived;
declared
valid
corpora-
tion.

Acts of
directors
legalized.

§ 2. The corporate existence of the said Carthage Machine Company is hereby revived and extended as of the seventh day of January, nineteen hundred and twenty, to be perpetual, subject to the power of the legislature, by law, to hereafter limit or terminate its existence, and to be possessed and seized of all the property, and be vested with all the rights and privileges had, possessed, seized and enjoyed by the said Carthage Machine Company at any time prior to the seventh day of January, nineteen hundred and twenty, and such corporation shall be deemed to have existed for all purposes from the date last mentioned, without any lapse, forfeiture or interruption of its corporate existence, and subject to the same liabilities and restrictions provided by law.

Corporate
existence
revived
to be per-
petual.

Corpora-
tion deemed
to have ex-
isted with-
out lapse.

§ 3. The said corporation shall, within thirty days after this act takes effect, file in the office of the secretary of state a certificate, under the signature of an officer thereof, setting forth:

Certifi-
cate to be
filed with
secretary
of state.

1. The name of the corporation.

2. The date on which its original certificate of incorporation was filed in the office of the secretary of state.

3. That its existence is revived and extended to be perpetual, pursuant to this act, and citing the same by chapter number and year of passage.

Such certificate shall be acknowledged by the officer executing the same, in the manner required of a deed to be recorded within the state.

Pending
actions.

§ 4. Nothing in this act contained shall affect any action or proceeding pending at the time this act takes effect.

§ 5. This act shall take effect immediately.

CHAPTER 76

AN ACT to amend the county law, in relation to width of streets in real property development in Nassau county.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 251
added to
L. 1909,
ch. 16.

Section 1. Article fifteen of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended by adding thereto a new section, to be section two hundred and fifty-one,¹ to read as follows:

§ 251. **Width of streets for real property development in Nassau county.** If any person or corporation, as owner or agent, shall have subdivided real property in the county of Nassau, outside of a city or village, into lots, plots, blocks or sites, and shall offer the same for sale to the public, the streets within such development so dividing the same into lots, plots, blocks or sites, shall be at least three rods in width, and shall be so indicated on any map thereof filed with the county or town clerk pursuant to section three hundred and thirty-four of the real property law, before such lots, plots, blocks or sites are offered for sale, unless the town superintendent of the town in which such real property is located shall consent that any such street, or part thereof, be of a lesser width, which, however, shall not be less than two rods. Such consent, if granted, shall be evidenced by certificate of the town superintendent, describing or designating such street or portion thereof with sufficient exactitude to locate the same on the map of such real property, filed in the offices of the county and town clerks. Such certificate shall be issued in duplicate and a copy filed in each such offices. If a map of such real property shall have been theretofore filed in such offices, the county or town clerk shall indicate thereon every street or portion thereof to which such consent applies. The provisions of this section shall not apply to streets, not less than two rods in width, heretofore laid out in a real property development, described in this section, if dwelling houses shall have been erected thereon. Any person or corporation violating this section shall be guilty of a misdemeanor, and in addition, any contract for the sale of a lot or plot in such development, and any deed or conveyance thereof, may

¹ A § 251 was previously added by L. 1921, ch. 227.

be set aside by the supreme court, upon proof of the fact that a street or portion thereof in such development, on which such lot or plot is situated, has not been laid out as required by this section.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

In effect
July 1,
1922.

CHAPTER 77

AN ACT to amend the debtor and creditor law, in relation to discharge of bankrupt from judgment.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and fifty of chapter seventeen of the laws of nineteen hundred and nine, entitled "An act relating to debtors and creditors, constituting chapter twelve of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 17,
§ 150
amended.

§ 150. **Discharge of bankrupt from judgment.** At any time after one year has elapsed since a bankrupt was discharged from his debts, pursuant to the acts of congress relating to bankruptcy, the bankrupt, his receiver, trustee or any other interested person or corporation,¹ may apply, upon proof of the bankrupt's² discharge, to the court in which a judgment was rendered against him, or if rendered in a court not of record, to the court of which it has become a judgment by docketing it therein,³ for an order, directing the judgment to be canceled and discharged of record. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which such judgment was recovered, an order must be made directing said judgment to be canceled and discharged of record; and thereupon the clerk of said court shall cancel and discharge the same, by marking on the docket thereof that the same is canceled and discharged by order of the court, giving the date of entry of the order of discharge. Where the judgment was a lien on real property owned by the bankrupt more than four months⁴ prior to the time he was adjudged a bankrupt, the lien thereof upon said real estate shall not be affected by said order and may be enforced, but in all other respects the judgment shall be of no force or validity, nor shall the same be a lien on real property acquired by him subsequent to his discharge in bankruptcy. Notice of the application, accompanied with copies of the papers upon which it is made, must be served upon the judgment creditor, or his attorney of record in said judgment, in the same manner as

¹ Words "the bankrupt, his receiver, trustee or any other interested person or corporation," substituted for word "he."

² Words "the bankrupt's" substituted for word "his."

³ Word "therein" substituted for words "or filing a transcript thereof."

⁴ Words "more than four months" new.

prescribed in rule twenty of the rules of civil practice,⁵ if the residence or place of business of such creditor, or his attorney, is known; but if unknown and cannot be ascertained after due diligence, or if such creditor is a non-resident of this state, and his attorney is dead, removed from, or cannot be found within the state, upon proof of said facts by affidavit, a judge of the court may make an order that the notice of such application be published in a newspaper designated therein, once a week for not more than three weeks, which publication shown by the affidavit of the publisher, shall be sufficient service upon such judgment creditor, of the application.

§ 2. This act shall take effect immediately.

CHAPTER 78

AN ACT to amend the highway law, in relation to the powers of certain officers and employees in the state tax department with respect to motor vehicles.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 309a
added to
L. 1909,
ch. 80.

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting a new section to follow section three hundred and nine, to be section three hundred and nine-a, to read as follows:

§ 309-a. **Powers of inspection.** Any member of the state tax commission, or any deputy or employee duly authorized by the commission, may act as inspectors or investigators of motor vehicles; and such officers or employees so authorized are declared to be peace officers within the provisions of section one hundred and fifty-four of the code of criminal procedure and shall have and may exercise all the powers of such peace officers with respect to violations of articles eleven and eleven-a of the highway law.

§ 2. This act shall take effect immediately.

⁵ Words "rule twenty of the rules of civil practice," substituted for words "section seven hundred and ninety-six and seven hundred and ninety-seven of the code of civil procedure."

CHAPTER 79

AN ACT to amend chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," in relation to the rules for the use and government of the Palisades Interstate Park.

Became a law March 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter one hundred and seventy of the laws of nineteen hundred, entitled "An act to provide for the selection, location, appropriation and management of certain lands along the Palisades of the Hudson river for an interstate park and thereby to preserve the scenery of the Palisades," as last amended by chapter one hundred and sixty-eight of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

L. 1900,
ch. 170,
§ 5, as
amended by
L. 1917,
ch. 168,
amended.

§ 5. **Acquisition of lands; maintenance of park.** The said board of commissioners shall have the power to acquire, maintain and make available for use as a public park, the lands located as aforesaid, and for this purpose shall have power to take in fee or otherwise, by purchase, gift, devise or eminent domain, the said lands, or any of them and any rights, interests and easements therein, and to receive by gift, contribution or bequest moneys to be used in acquiring or improving the said lands or any of them; said board shall also have power to acquire for park purposes by gift or devise, and also by purchase when funds are hereafter made available therefor by the legislature, but not by eminent domain, any lands or rights in lands outside of the areas defined in section four; deeds of conveyance for such lands shall be made to said board of commissioners by its corporate name, and it shall be the duty of said board to preserve, care for, lay out and improve the said park and to make rules for the use and government of the same, and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;² said board shall have power also to lay out, construct and

¹ Previously amended by L. 1906, ch. 691; L. 1910, ch. 361.

² Words "and of such parts of state, county and other public highways as lie along or within the boundaries of such park; a violation of any of such rules shall constitute a misdemeanor and shall be punishable by a fine of not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, provided, however, that any rules which may apply to any part of any state or county highway shall be subject to the approval of the state commission of highways;" new.

maintain roads, pathways and boulevards upon, across and over the said park, to lay out, construct and maintain roads between and connecting any separate portions of said park, and for this purpose to acquire rights of way upon and across any intervening lands, and to lay out, construct and maintain roads and ways connecting the roads and ways within said park with other public roads outside of and adjacent thereto. The said board of commissioners shall in laying out and maintaining said park have regard to the laying out and maintenance of such park as may be established by the state of New Jersey along the Palisades and Hudson river, and shall, so far as may be, lay out and maintain said park in such manner that it, together with such park as may be established by the state of New Jersey, shall form a continuous park, the intention of this act being to provide, in conjunction with the state of New Jersey, for the establishing of a park along the entire front of the Palisades from Fort Lee, in New Jersey, to the termination thereof in this state, and along the front of the mountain lands extending along the west bank of the Hudson river from the northerly limit of the Palisades to the state reservation at Stony Point and in the mountainous lands along and adjacent to the west bank of the Hudson river in Rockland and Orange counties south of the city of Newburgh and in other lands to the west thereof and extending into the Ramapo mountains and in such other lands as may be acquired by the said board of commissioners, except the land comprised in the said United States government reservation at West Point and the land comprised in the said state reservation at Stony Point and thereby preserving the scenic beauty of the Palisades and of said lands or securing the use thereof to the public for park purposes.

§ 2. This act shall take effect immediately.

CHAPTER 80

AN ACT to authorize the village of Clifton Springs, in Ontario county, to sell its electric light plant and system.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Sale authorized.

Section 1. The board of trustees of the village of Clifton Springs, in the county of Ontario, is hereby authorized to sell and convey the electric light plant and system now owned by such village, for such price and upon such terms as may be approved by a majority of the voters of such village qualified to vote upon a proposition, as provided in section forty-one of the village law, provided a majority of such voters vote in favor of such sale at an annual election or at a special election held pursuant to section fifty-six of the village law.

§ 2. In case such sale is authorized, conveyance or conveyances of the property when made shall be made as provided in subdivision three of section eighty-nine of the village law. Conveyance, how made.

§ 3. This act shall take effect immediately.

CHAPTER 81

AN ACT to amend chapter one hundred and five of the laws of eighteen hundred and seventy, entitled "An act to incorporate the trustees of the Orphan House and Industrial School of the Holy Savior, near Cooperstown, New York," in relation to trustees.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter one hundred and five of the laws of eighteen hundred and seventy, entitled "An act to incorporate the trustees of the Orphan House and Industrial School of the Holy Savior, near Cooperstown, New York," as amended by chapter three hundred and forty of the laws of eighteen hundred and ninety-one, is hereby amended to read as follows: L. 1870, ch. 108, § 3, as amended by L. 1891, ch. 240, amended.

§ 3. The corporation shall be managed by a board of trustees, Trustees. which shall consist of the bishop of the Protestant Episcopal church in the diocese of Albany, who shall be ex-officio president of the same, the rector of Christ church, Cooperstown, ¹ one trustee to be elected annually by the synod of the province of New York and New Jersey of the Protestant Episcopal church in the United States of America, and nine other persons. Such ² nine trustees shall be elected by the annual diocesan convention of said diocese. ³ At each annual election hereafter ⁴ three trustees only shall be elected to hold office for three years. The board of trustees may fill any vacancy in the office of trustee by appointment to serve until the next ⁵ election, at which time a trustee shall be elected to fill such vacancy for the unexpired term. By their corporate name said trustees shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same may alter and change at pleasure; may make by-laws for the management of the affairs of said corporation not inconsistent with the constitution and laws of this state or the United States; may appoint servants and teachers for the institution under their charge, and allow Election and terms of trustees.

¹ Remainder of sentence formerly read: "Susan Fenimore Cooper, during her lifetime, and nine other persons."

² Word "Such" substituted for word "Said."

³ Sentence omitted which read: "At the first annual election held after the passage of this act, nine trustees shall be elected, who shall divide themselves by lot into three classes, three of whom shall hold office for one year, three for two years and three for three years."

⁴ Word "hereafter" substituted for word "thereafter."

⁵ Word "annual" omitted.

Corporate powers.

them a suitable compensation for their services; may appoint a secretary and treasurer, and cause a record to be kept of the proceedings of the board of trustees in a book or books which shall be open to the inspection of the said convention, or any committee of the same; shall make an annual report to the said convention, showing in detail their proceedings, the condition of the property and funds intrusted to their charge, and their receipts and expenditures; shall conform to any instructions or directions of the said convention touching the management and care of said orphanage, and the property and funds of the same, provided the same shall be in writing and entered on the journals of the said convention. The trustees of said corporation who shall be in office at the date of the passage of this act shall hold the same until the ⁵election herein provided for and until their successors are elected.

§ 2. This act shall take effect immediately.

CHAPTER 82

AN ACT to amend the conservation law, in relation to the Cuba reservation. Became a law March 7, 1922, with the approval of the Governor. Passed,

three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 50,
subd. 32,
as added
by L. 1917,
ch. 266,
amended.

Section 1. Subdivision thirty-two of section fifty of article four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added to said section fifty by chapter two hundred and sixty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

Care and
control of
Cuba re-
servation.

32. Have the care, custody, control and administration of the Cuba reservation. The said reservation is to be preserved and maintained for reservoir and camping purposes. The commission shall have the power to make all rules and regulations, which in its judgment are necessary for the use and preservation of the said premises and property; to make leases or renewals thereof of lots of land therein, adjacent to or surrounding the reservoir for terms not to exceed five years; to permit the erection of structures by the lessees with the privilege of removing the same during the term of said lease; and fix the terms and conditions upon which leases shall be made; ¹ to arrange for sanitation and provide for the removal of waste matter and to charge lessees of lots therefor. Lands in the Cuba reservation which are not deemed by the conservation commission desirable for camping

Lease of
lots.

Sanita-
tion.

Sale or
exchange of
undesir-
able lands.

⁵ Word "annual" omitted.

¹ Remainder of sentence new.

purposes may be sold or exchanged for other lands which it may be necessary to acquire in order to consolidate holdings or make better administration of the property possible. So much of the proceeds from the sale of lands, as shall by the conservation commission be deemed necessary, may be used to purchase other land situated between the public highway now running around the lake and the high water mark of the reservoir or may be used for building roads or otherwise improving the reservation. The commission shall on behalf of the state in case of sale or exchange have the power and authority to convey the state's interest in such lands. ¹ Money collected for sanitation and waste removal may be expended by the commission for that purpose.

Applica-
tion of
moneys
received.

The provisions of section thirty-seven of the state finance law shall not apply to any moneys received pursuant to the provisions of this subdivision if used for the purposes indicated, but all such moneys shall be deposited pursuant to the provisions of section ten of the state finance law.

§ 2. This act shall take effect immediately.

CHAPTER 83

AN ACT to amend chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam," generally.

Accepted by the City.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seven of title nine of chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam," is hereby amended to read as follows:

L. 1911,
ch. 242,
§ 107
amended.

§ 107. **Consideration of annual estimates by common council; transmission thereof to the mayor.** The common council shall, at its first regular meeting in February of each year, carefully consider the estimates submitted to it by the various city officials. The said common council shall thereupon make an estimate of the several amounts of money which it deems necessary to provide: For the expenses of conducting the business of the city in each board, department and office thereof, and for the various purposes contemplated by this act and otherwise by law for the said fiscal year, except the expenses of the board of education and the expenses of the department of public health;¹ to pay the principal

¹ Following sentence new.

¹ Words "department of public health" substituted for words "board of health."

and interest on any bonded or other indebtedness of the city, falling due during the said fiscal year, except the principal and interest on bonds issued to provide for a supply of water for said city; the amount, if any, voted for at a taxpayer's election; the amount of the city's share of expenses of paving and grading during the preceding fiscal year; and the amount of any indebtedness remaining unpaid on all judgments against the city. The common council may include in its estimate such sums as may be necessary to retire any maturing bonds heretofore issued to provide for a supply of water for said city, the payment of which is not fully provided for by moneys held in some sinking fund. After said annual estimates shall have been completed, the common council shall submit the amount to the mayor with a statement, in writing, with such reasons for such estimates as it may deem proper.

§ 108,
amended.

§ 2. Section one hundred and eight of title nine of said chapter is hereby amended to read as follows:

§ 108. **Power of mayor over annual estimate as made by common council.** Upon the receipt by the mayor of the annual estimate submitted to him by the common council, as provided for by the last section, he shall carefully consider the same and shall have power to diminish or reject any item or items thereof but shall have no power to increase any item thereof; except the mayor shall not diminish or reject any item voted for at a taxpayers' election, or the sums lawfully payable within said fiscal year upon judgments against the city, or the amount necessary for paying the city's share of paving and grading, nor shall the said mayor increase any item for any purpose contained in said estimate. When the mayor shall have revised said estimate of the common council, he shall add thereto the amounts determined by the health officer² and the board of education to be necessary for the expenses of their departments during the current fiscal year, and shall thereupon finally approve said estimate as revised by him, and shall return the same to the common council on or before the first regular meeting of said common council in the month of March of each year, with a statement of the reasons for any changes made by him in the estimates as proposed by the common council.

§ 110, as
amended by
L. 1921,
ch. 61,
amended.

§ 3. Section one hundred and ten of title nine of said chapter, as amended by chapter sixty-one of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

§ 110. **Maximum amount of the annual city tax levy.** The amount of the annual city tax levy as finally made up, adopted and ordered levied, as provided in the preceding section, after deducting therefrom the amounts required by the board of education, the department of public health,⁴ the amount voted for at a taxpayers' election, the city's portion of all paving and

² Words "health officer" substituted for words "board of health."

³ Previously amended by L. 1916, ch. 78; L. 1918, ch. 169; L. 1919, ch. 255.

⁴ Words "department of public health" substituted for words "board of health."

grading, the amount determined necessary to retire any maturing water bonds for the payment of which no sufficient sinking fund has been provided, the amount necessary to pay the interest on all outstanding sewer bonds and obligations, and the principal of such bonds and obligations as mature during the fiscal year, and the amount remaining unpaid on all judgments against the city, shall not in any one year exceed in the aggregate the sum of three hundred thousand dollars, from which said sum of three hundred thousand dollars there shall be deducted the estimated revenues of the city from all sources for the fiscal year.

§ 4. Subdivision "second" of section one hundred and thirteen of title nine of said chapter is hereby amended to read as follows: § 113, subd. second amended.

Second: For the payment and ⁵ redemption of all bonds hereafter issued for water purposes, including bonds reissued or refunded, by setting aside annually a sum which will produce an amount equal to the sum of the principal ⁶ of said bonds maturing during said year, and the annual interest on all of said bonds outstanding,⁷ and also for the purpose of making the payments required by law into the sinking funds which have been heretofore created for the purpose of redeeming bonds issued to provide for a supply of water, ⁸and that may be issued, authorized by and in compliance with section ten of article eight of the constitution of the state of New York and in excess of the limitation of indebtedness fixed therein. Application of water fund.

§ 5. Section one hundred and fourteen of title nine of said chapter is hereby amended to read as follows: § 114 amended.

§ 114. **Issuance of bonds.** The common council, by a vote of two-thirds of its members elected, shall have power to borrow money for the purpose of paying, reissuing or refunding the whole or any part of the water bonds of the city of Amsterdam, when the same shall fall due and sufficient funds for their payment are not on hand and applicable thereto, and shall make, execute and deliver new bonds or other obligations to secure the payment of said loan. The common council shall also have power to borrow such sums as shall have been authorized by a majority vote at the taxpayers' election held as provided for in this act, and such sums as shall have been authorized under the provisions of the education law and after compliance with the requirements thereof,⁹ and may make, execute and deliver bonds or other obligations to secure the payment of said loan. All bonds of said city issued as provided by this section, for whatever purposes, shall be advertised and sold by the mayor, corporation counsel and

⁵ Words "payment and" substituted for words "creation and maintenance of a sinking fund to meet the."

⁶ Words "and interest" omitted.

⁷ Words "maturing during said year, and the annual interest on all of said bonds outstanding," substituted for words "at their maturity."

⁸ Remainder of sentence new.

⁹ Words "and such sums as shall have been authorized under the provisions of the education law and after compliance with the requirements thereof," new.

city treasurer. They shall cause to be published in the official papers of the city, daily for not less than five successive days, Sundays excepted, a notice containing a description of the bonds to be sold, the manner and place of sale and the time when the same shall be sold, or the time limited for the receipt of sealed proposals, which shall not be less than ten days from the first publication of said notice. When bonds are sold under sealed proposals, no proposal shall be opened until one hour after the time limited for the receipt thereof has elapsed, and all proposals shall be opened in public. Award shall be made to the highest bidder. At any sale of bonds either by auction or under sealed proposals, the mayor, corporation counsel and treasurer, or a majority of them, may reject all bids and readvertise if in their opinion the price offered is inadequate. All said bonds or other obligations shall be issued in the name of and under the seal of the city, upon such terms of credit and at such rate of interest as the common council may determine; and all such bonds shall be signed by the mayor and city clerk, and shall be delivered to and countersigned by the treasurer, who shall receive and deposit the proceeds therefrom to the credit of the proper fund, to be used only for the purpose for which said money was borrowed. A record of said bonds shall be kept as provided by general law and no bond or other obligation shall be disposed of at less than its par value. All such bonds or other obligations and the interest thereon¹⁰ shall be a valid liability against the city and the credit of the city is pledged for the payment of the same. ¹¹All such bonds shall be in serial form maturing in substantially equal amounts annually in each year subsequent to the date of issue; and may be registered or coupon and shall be payable at the office of the city treasurer or at such bank, banking house or trust company as the common council may direct; and no such bonds which are payable in instalments shall be refunded, but provision shall be made for the payment of each instalment and accrued interest in the year in which it shall become due by the insertion of the proper sum in the annual estimate for the year in question, and which shall be raised by tax in addition to the moneys otherwise authorized to be raised by law, with the exception of bonds issued for water purposes. Any and all bonds issued for water purposes, including such bonds reissued or refunded, shall be redeemed and the interest thereon paid out of and from the amount received from the collection of water rents, bills for the use of water and other income derived from the water works system with the exception of the amount determined necessary to redeem any maturing water bonds for the payment of which no sufficient sinking fund has been provided and in such event the provisions of sections one hundred and seven and one hun-

¹⁰ Word "thereon" substituted for word "therein."

¹¹ Sentence omitted which read: "A sinking fund shall be created on the issuance of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity." Remainder of section new.

dred and ten respecting the same may be complied with. Any and all bonds hereafter issued for water purposes, including bonds reissued or refunded, shall be in serial form and both principal and interest payable as hereinbefore indicated for other city bonds, but out of and from the funds derived from the water rents, bills for the use of water and other income derived from the water works system, but if, for any reason, the amount received from the water rents, bills for the use of water and other income derived from the water works system be insufficient to pay the interest on all such bonds and the principal of such bonds as mature during the fiscal year, then it shall be the duty of the common council to include the amount of such deficiency in its annual estimate of city expenses, and to assess, levy and collect the same from the taxable property of said city of Amsterdam in the same manner as other city expenses are assessed, levied and collected and in addition thereto. In the event it is necessary to issue bonds to provide for the supply of water and the same are in excess of the limitation of indebtedness fixed by the constitution of the state of New York,¹² the term of said bonds shall not exceed twenty years and a sinking fund shall be created on the issuing of said bonds for their redemption by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity, and the same shall be issued in compliance with the requirements of the said constitution and shall in no manner contravene the same. Any and all existing sinking funds shall be continued in the manner now provided by law and any bonds of the city or any board thereof heretofore issued and not payable in annual instalments may be refunded. Each such bond shall contain a recital that it is issued pursuant to, and in conformity with, the provisions of this section, which recital shall be conclusive evidence of its validity and of the regularity of its issue.

§ 6. This act shall take effect immediately.

CHAPTER 84

AN ACT making an appropriation for highway improvement purposes.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of two hundred and seventy thousand five hundred and two dollars and thirty-five cents (\$270,502.35), being the unexpended balance of Monroe county's share from the funds derived from the second fifty million dollar bond issue for the construction of state highways in accordance with chap-

¹² Art. 8, § 10.

ter two hundred and ninety-eight of the laws of nineteen hundred and twelve, is hereby reappropriated pursuant to such chapter. The money so appropriated shall be expended for the construction and improvement of highways in accordance with the provisions of chapter six hundred and twenty-six of the laws of nineteen hundred and eighteen, being section six-a of chapter two hundred and ninety-eight of the laws of nineteen hundred and twelve, as amended.

§ 2. This act shall take effect immediately.

CHAPTER 85

AN ACT to amend the civil practice act, in relation to certain provisions re-enacted from the code of civil procedure.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1572a
added.

Section 1. The civil practice act is hereby amended by adding thereto, after section fifteen hundred and seventy-two, a new section, to be numbered fifteen hundred and seventy-two-a, and to read as follows:

§ 1572-a. **Effect given statutory references to code of civil procedure.** A reference in any statute to the code of civil procedure or to any provision thereof shall be deemed to be a reference according to the fair intendment thereof to the civil practice act or to a corresponding provision thereof or of any other statute enacted or rule of court adopted in the years nineteen hundred and twenty or nineteen hundred and twenty-one in connection with or by reason of the repeal of such code.

§ 2. This act shall take effect immediately.

CHAPTER 86

AN ACT to amend the civil practice act, in relation to notice of publication of sale in real property actions.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 986
amended.

Section 1. Section nine hundred and eighty-six of the civil practice act is hereby amended to read as follows:

§ 986. **Sale; notice of; how conducted.** A sale of real property made in pursuance of a judgment in an action affecting the title to, or the possession of, enjoyment or use of real property, must be at public auction to the highest bidder. Notice of such sale must be given by the officer making it, as prescribed for the

sale by a sheriff of real property by virtue of an execution, unless the property is situated wholly or partly in a city, or in an incorporated village of the first class in which a daily, semi-weekly or tri-weekly newspaper is published, and, in that case, by publishing notice of the sale in such a daily, semi-weekly or tri-weekly paper, at least twice in each week for three successive weeks, or in a weekly paper published in a city or in such incorporated village of the first class, once in each of the six weeks immediately preceding the sale, or in the counties of New York and Kings in two such daily papers. If the property be situated in a city in which no newspaper is published, and there be an adjoining city, in the same or¹ another county, in which a newspaper is published, such notice may be published either twice a week for three successive weeks immediately preceding the sale in a daily, semi-weekly or tri-weekly newspaper of the latter city or once a week for six successive weeks immediately preceding the sale in a weekly newspaper of such city. If the officer appointed to make such sale does not appear at the time and place where such sale has been advertised to take place, the attorney for the plaintiff may postpone or adjourn such sale not to exceed four weeks, during which time such attorney may make application to the court to have another person appointed to make such sale. Notice of the postponement of the sale must be published in the paper or papers wherein the notice of sale was published. The terms of the sale must be made known at the sale, and if the property or any part thereof is to be sold subject to the right of dower, charge or lien, that fact must be declared at the time of the sale. If the property consists of two or more distinct buildings, farms or lots, they shall be sold separately, unless otherwise ordered by the court; but where two or more buildings are situated in the same city lot, they shall be sold together.

§ 2. This act shall take effect immediately.

CHAPTER 87

AN ACT to amend the justice court act, in relation to payment of justice's fee on appeal.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and thirty of the justice court act is hereby amended to read as follows: § 430
amended.

§ 430. **Service of notice upon justice; payment of costs and fees.** Service of the notice of appeal upon the justice must be made by delivering it to him personally, or to his clerk appointed pursuant to law, or by mailing such notice to the justice at his

¹ Words "the same or" new.

office in the manner prescribed in the following section for service of notice by mail; but if the justice is dead, or if neither he nor his clerk can, after reasonable diligence, be found within the county, service of the notice upon the justice may be made by delivering it to the clerk of the appellate court. Unless the justice is dead, the appellant must, at the time of serving the notice, pay to the person to whom it is delivered the costs of the action, included in the judgment, and the¹ fee of the justice prescribed by law² for making the return.

§ 2. This act shall take effect immediately.

CHAPTER 88

AN ACT to amend the county law, in relation to the salary of the county judge of Ontario county.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 16,
§ 232,
subd. 33,
as amended
by L. 1916,
ch. 252,
amended.

Section 1. Subdivision thirty-three of section two hundred and thirty-two of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," as amended by chapter two hundred and fifty-two of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

33. Ontario..... 3,000 00¹ 2,000 00

In effect
Jan. 1,
1923.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three.

CHAPTER 89

AN ACT to amend chapter twenty-four of the laws of nineteen hundred and six, entitled "An act to make the office of sheriff of Cayuga county a salaried office, and regulating the management of said office," generally.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1906,
ch. 24,
§§ 1, 2, 10
amended.

Section 1. Sections one, two and ten of chapter twenty-four of the laws of nineteen hundred and six, entitled "An act to make the office of sheriff of Cayuga county a salaried office, and regulating the management of said office," are hereby amended to read as follows:

¹ Words "sum of two dollars as the" omitted.

² Words "prescribed by law" new.

³ Formerly read: "2,000 00."

§ 1.¹ The sheriff of the county of Cayuga shall receive as compensation for all his services an annual salary to be fixed by the board of supervisors of such county. After January first, nineteen hundred and twenty-three, the salary of the sheriff of such county shall not be increased or diminished during the term for which such sheriff shall have been elected. Until so fixed by the board of supervisors, such sheriff shall receive the salary which he is receiving at the time this section, as hereby amended, takes effect.

§ 2. It shall be the duty of such sheriff to perform all the services which he is or shall be required or authorized by law to perform by virtue of or by reason of his holding such office for the state, for the county and for individuals, including his duties as officer of the courts and keeper of the jail, and no compensation, payment or allowance shall be made to him for his own use for any such services except the salary² provided for by or pursuant to section one of this act.

§ 10.³ There shall be one under-sheriff, such number of deputies as the board of supervisors, by resolution, shall determine, and a jailer. The under-sheriff and jailer shall receive annual salaries. The board of supervisors may, by resolution, determine that one or more of the deputies shall receive annual salaries. Salaries provided for in this section shall be fixed by the board of supervisors. The under-sheriff, the jailer and the deputy now known as the office deputy shall receive the salaries they are receiving when this section as hereby amended takes effect until otherwise provided by the board of supervisors. The provisions of this act authorizing the sheriff to contract with deputies for a portion of the fees earned by them shall not apply to salaried deputies. The salaries of said sheriff, under-sheriff, deputies and jailer shall be paid as salaries of other county officers are paid.

§ 2. This act shall take effect immediately.

CHAPTER 90

AN ACT to amend chapter one hundred and seven of the laws of eighteen hundred and eighty-four, entitled "An act in relation to the collection of taxes in Monroe county, and to authorize and provide for the sale of property for unpaid taxes in said county," generally.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four of chapter one hundred and seven of the laws of eighteen hundred and eighty-four, entitled "An act

¹ Section 1 materially amended.

² Remainder of sentence substituted for word "aforesaid."

³ Section 10 materially amended.

L. 1884,
ch. 107,
§ 4, as
amended
by L. 1918,
ch. 234,
amended.

Duties to
be per-
formed
without
compensa-
tion ex-
cept salary.

Under-
sheriff,
deputies,
jailer;
salaries.

in relation to the collection of taxes in Monroe county, and to authorize and provide for the sale of property for unpaid taxes in said county," as last amended by chapter two hundred and thirty-four of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

List of
lands
charged
with un-
paid taxes;
notice of
publica-
tion.

Publica-
tion of
list and
notice of
sale.

Errors in
description;
correction,
effect.

Expense of
printing

Affidavit of
publica-
tion.

Inconsist-
ent acts.

§ 4. The treasurer of said county shall make a list or statement of the lands charged with such unpaid taxes, that are unpaid on the first day of August, in each and every year, and for thirty days prior to said first day of August, in each and every year, shall cause to be published and printed in the newspapers in said county designated by the board of supervisors,² a notice which shall call the attention of the public and all persons interested, that on the fifteenth day of August of that year, specifying the date, he will publish a list or statement of the lands charged with such unpaid taxes remaining unpaid on the said first day of August of that year, and that such list or statement will be published and printed in the newspapers in said county designated by the board of supervisors,² specifying such newspapers, and such list or statement of lands charged with such unpaid taxes shall be published in such papers on the fifteenth day of August prior to the time of such sale, which shall commence on the twentieth day of August in each and every year, together with a notice that so much of said lands as may be necessary to discharge the taxes, interest and charges which may be due thereon at the time of the sale, together with the expense of procuring description, will, on the day aforesaid, which shall be specified in such notice, and the succeeding days, be sold at public auction in the treasurer's office in the city of Rochester. Should any errors be discovered in the description of the lands so assessed and taxed, the said treasurer may correct the same at any time previous to the sale, and no errors in the printed description in such newspapers shall vitiate or in any manner affect the validity of such sale. All expense of printing such list or statement and notices shall be audited by the board of supervisors, and paid out of the treasury of said county. The publishers of said newspapers shall, immediately after the last publication of said list and notice, deliver to the treasurer of said county an affidavit of the due publication thereof, made by some person or persons to whom the fact of such publication shall be known.

§ 2. All acts or parts of acts inconsistent herewith are hereby repealed.

§ 3. This act shall take effect immediately.

¹ Previously amended by L. 1893, ch. 718.

² Words "for publishing the session laws" omitted.

CHAPTER 91

AN ACT to amend the Amsterdam city charter, relative to paving.

Accepted by the City.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-seven of title five of chapter two hundred and forty-two of the laws of nineteen hundred and eleven, entitled "An act to amend, consolidate and revise the several acts relative to the city of Amsterdam," as amended by chapter three hundred and ten of the laws of nineteen hundred and seventeen, is hereby amended to read as follows: L. 1911,
ch. 442,
§ 57, as
amended by
L. 1917,
ch. 310,
amended.

§ 57. **Paving.** No street shall be paved by said city unless the owners owning a majority of the amount of lineal feet fronting on the part of the street proposed to be paved petition therefor; except that if the common council shall by resolution and vote of three-fourths of the aldermen in office decide that such paving be expedient and necessary, then such paving can be done without such petition. If the common council shall decide without a petition as above provided, that any street or section of a street ought to be paved, the city clerk shall cause to be published for at least six days,¹ a notice in the² official newspapers of the city, that at a time and place to be therein specified, the common council will meet to make a final determination in respect thereto. Such notice shall contain a brief description of the character, location and extent of the paving and of the material to be used therefor. Any person interested shall be entitled to be heard at such meeting in opposition to or in favor of such paving. If at the time of or before such meeting a protest against the paving, in writing, signed by the owners of two-thirds of the frontage upon such street or section of street proposed to be paved, and acknowledged as deeds of real estate are required to be acknowledged, be filed with the city clerk, the said common council shall not order the proposed paving, nor shall it consider the same again within one year; but the owners owning a majority of the amount of lineal feet fronting on a smaller section of the same street not less than one block, may file with the city clerk a petition therefor, and in that case the said common council may order the paving as therein requested. Fifty per centum of the expenses of paving made or directed under this section, shall be paid by a general tax upon the city, exclusive of curbing, and the amount charged to any street surface railroad corporation, and such part or portion of such expenses shall thereupon become a charge upon the city and shall be added to and raised

¹ Words "six days" substituted for words "two weeks."

² Word "two" omitted.

with the next general assessment and tax for city purposes; and the balance of said expense, exclusive of the part to be done or paid for by any street surface railroad corporation under the terms of the general laws of this state, shall be defrayed by local assessment upon such portions of the real estate in said city and against the owners thereof, as the assessors of said city shall deem more immediately benefited by such paving. No part of the expense of paving a street, except the general tax hereinbefore mentioned, shall be assessed upon any lands not bordering on or touching the part or parts of such street upon which such improvements are made. The common council shall not in any one year, order or contract for paving, the total cost or expense of which shall be in excess of the sum of sixty thousand dollars.¹ Nothing herein contained shall relieve any street surface railroad corporation from the obligation of paving such portion of the street as is imposed on it by law; and the cost of paving the said portion shall not be considered a portion of the total cost of paving, in determining the amount of paving that may be ordered or contracted for in any one year, nor shall the cost of curbing be therein included. The said common council is hereby authorized to borrow upon the credit of the city such sums and for such period of time, not exceeding four years for any portion thereof, as shall be necessary to pay the entire cost and expense of such paving, in anticipation of the collection of the taxes therefor, and pay and discharge the entire indebtedness thereof. The city's portion of the money so borrowed shall be repaid, when collected, from the general tax. The balance of said indebtedness so borrowed shall be repaid, when collected, from the assessment for such paving. Any person, firm or corporation owning property abutting or touching on any street, or section thereof, directed to be paved according to any of the provisions of this act, and against whom or whose property the assessors shall make an assessment and who shall become and be liable for the payment of such assessment, as herein provided, may, at any time before the expiration of the last day when the tax or assessment for such paving may be paid without fees to the city treasurer, as provided in section one hundred and four of this act, file a statement in writing with the city treasurer, that he, she, they, or it elects to pay such tax or assessment in not to exceed three equal instalments with interest thereon at six per centum per annum, interest to be computed on such instalments from the expiration of the last day when the same might have been paid without fees had such election not been made. At the time of filing such statement the person, firm or corporation filing the same must pay the first instalment of said tax or assessment; otherwise such statement and election shall be void and of no effect. The balance of such instalments shall be due and payable in one and two years respectively. At the time when such tax or assessment is due where no election is made as above provided, and when any of

¹ Formerly "thirty thousand dollars."

the respective unpaid instalments with the interest thereon shall become due and payable where such election is made, said common council shall issue the proper warrant for the collection of said tax or assessment or unpaid instalment, with interest, so due and payable, attach the same to said assessment roll, and deliver the said warrant so attached to the treasurer of said city, and thereupon the same proceeding shall be had and taken for the collection of said tax or assessment or unpaid instalment as provided by section one-hundred and four of this act for the collection of a local assessment and as prescribed by sections eighty-six to ninety-four, inclusive, of the act for the collection of unpaid taxes. The term paving as used in this act shall include repaving, and is also intended to cover curbs along the line of such paving or repaving. The common council shall have the power to cause such curbs to be made, or remade, set or reset, in such manner and of such material as it may direct; such making or remaking, setting or resetting of such curbs, shall be included in and become a part of the proceedings and improvements of the paving or repaving of such street, made pursuant to this section, but the whole expense of such curbing or recurbing shall be assessed upon the real property and against the owners thereof abutting upon such improvement in proportion to the frontage thereon; and in making the assessments as in this section provided, all the improvements made as aforesaid, shall be included therein, and the cost and expense of such curbs shall be collected with and as a part of the assessment for the paving of such street.

§ 2. This act shall take effect immediately.

CHAPTER 92

AN ACT to amend the civil practice act, in relation to correcting a manifest error in the section relating to defendant's costs of course.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen hundred and seventy-five of the civil practice act is hereby amended to read as follows: § 1475
amended

§ 1475. **Defendant's costs of course.** The defendant is entitled to costs, of course, upon the rendering of final judgment in an action specified in sections fourteen hundred and seventy to fourteen hundred and seventy-three,¹ unless the plaintiff is entitled to costs as therein prescribed; but the fact that in any action a plaintiff is not entitled to costs by reason of having brought the action in a court of jurisdiction higher than that in which it might* have been brought shall not entitle the defendant to costs.

§ 2. This act shall take effect immediately.

* So in original. [Word misspelled.]

¹ Words "sections fourteen hundred and seventy to fourteen hundred and seventy-three," substituted for words "the last preceding section."

CHAPTER 93

AN ACT to amend chapter five hundred and forty-one of the laws of nineteen hundred and sixteen, entitled "An act relating to the preparation of assessment-rolls for the townships and tax districts therein, in the county of Nassau, and the collection of taxes in such towns and tax districts, and to repeal certain local acts and parts of acts relating to assessments and taxation in such county," in relation to advertisement of notice of sale.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1916,
ch. 541,
§ 82, as
added by
L. 1919,
ch. 154,
and
amended by
L. 1921,
ch. 265,
amended.

Section 1. Section eighty-three of chapter five hundred and forty-one of the laws of nineteen hundred and sixteen, entitled "An act relating to the preparation of assessment-rolls for the townships and tax districts therein, in the county of Nassau, and the collection of taxes in such towns and tax districts, and to repeal certain local acts and parts of acts relating to assessments and taxation in such county," as added by chapter one hundred and fifty-four of the laws of nineteen hundred and nineteen, and amended by chapter two hundred and sixty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 83. **Advertisement of notice of sale.** The county treasurer shall, before July first of each year, cause to be published at least once a week in each week, for six successive weeks, in a newspaper,¹ designated by the board of supervisors of Nassau county, printed and published in each township of the county,² a list of real estate so liable to be sold for unpaid taxes and assessments and which is located wholly or partly in the township in which said newspaper is³ published, together with a notice that said real estate will on the first Monday of July, specified in such notice, and the succeeding days, be sold at public auction at the county courthouse, Mineola, Nassau county, New York, and by such advertisement the owner or owners of such lands and tenements respectively shall be required to pay the amount of such tax or assessment, with the said penalties thereon remaining unpaid, together with interest thereon at the rate of seven per centum per annum to the time of sale, with the charges of such notice and advertisement to the county treasurer, and notice shall be given by such advertisement, that if default shall be made in such payment, such lands and tenements will be sold at public auction at a day and place therein to be specified for the amount of the taxes, together with the interest, penalties and other charges thereon, then a lien on such property, and for the

¹ Words "a newspaper" substituted for words "two newspapers."

² Words "representing, respectively, the two political parties which polled the highest number of votes at the last preceding election for governor," omitted.

³ Words "newspaper is" substituted for words "newspapers are."

lowest rate of interest during the period of redemption, or until such property be redeemed, at which any person or persons shall offer to take the same; such list shall contain the name of the owner or occupant of each piece of real estate to be sold, as the same appears upon the assessment-roll of the year in which such unpaid taxes were levied, and a brief description of such real estate, and the total amount of such unpaid taxes, which said total amount shall include all taxes, interest, expenses and other charges against the property for the year or years advertised.

§ 2. This act shall take effect immediately.

CHAPTER 94

AN ACT to amend chapter two hundred of the laws of nineteen hundred and fifteen, entitled "An act to make the office of sheriff of Hamilton county a salaried office, and to regulate the management of said office," in relation to the salary of the sheriff.

Became a law March 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter two hundred of the laws of nineteen hundred and fifteen, entitled "An act to make the office of sheriff of Hamilton county a salaried office, and to regulate the management of said office," is hereby amended to read as follows:

§ 1. After the expiration of the term of office of the present sheriff of the county of Hamilton, the sheriff of such¹ county shall receive as compensation for all services hereinafter enumerated an annual salary, to be fixed by the board of supervisors; but until otherwise fixed by such board, he shall receive the salary as established by law before this section as hereby amended takes effect. The salary of such sheriff shall be payable quarterly by the treasurer of said county. Said sheriff shall also be entitled free of rent or charge to occupy that part of the jail building now situated and located in the town of Lake Pleasant, in said county, and used as a residence for the sheriff of said county, with all necessary light, heat and water supply for the same. Such salary, when fixed by the board of supervisors,² shall not be increased or diminished after election of such sheriff and before his term begins or³ during the term for which such sheriff shall have been elected or appointed.

§ 2. This act shall take effect immediately.

¹ Word "such" substituted for word "that."

² Remainder of sentence and next sentence formerly read: "the annual salary of twelve hundred dollars payable quarterly by the treasurer of said county."

³ Words "when fixed by the board of supervisors," new.

⁴ Words "after election of such sheriff and before his term begins or," new.

L. 1915,
ch. 200,
§ 1
amended.

Salary.

Residence
free of
rent.

Salary not
to be in-
creased or
dimin-
ished.

CHAPTER 95

AN ACT to amend the penal law, in relation to payment of expenses of commitment, transportation, support and maintenance of children.

Became a law March 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision five of section four hundred and eighty-six¹ of the penal law is hereby amended to read as follows:

5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions. ²All expenses of commitment, transportation, support and maintenance of any child or children committed under subdivisions one, two and three of this section, unless paid pursuant to law by the parents, custodians or guardians of such child or children, shall be chargeable against and paid by the town, city or county which would be chargeable according to the law of settlement pursuant to article four of the poor law.

Whenever any child shall be committed to an institution under this chapter, and the warrant or commitment shall so state, and it shall appear therefrom that either parent, or any guardian or custodian of such child, was present at the examination before such court or magistrate, or had such notice thereof as was by such court or magistrate deemed and adjudged sufficient, no further or other notice required by any local or special statute, in regard to the committal of children to such institution, shall be necessary, and such commitment shall in all respects be sufficient to authorize such institutions to receive and retain such child in its custody as therein directed.

Whenever any commitment of a child shall for any reason be adjudged or found defective, a new commitment of the child may be made or directed by the court or magistrate, as the welfare of the child may require. And no commitment of a child which shall recite therein the facts upon which it is based shall be deemed invalid by reason of any omission of the court or magistrate by whom such commitment is made to file any documents, papers or proceedings relating thereto, or by reason of any limitation as to the age of the child committed, contained in the act or articles of incorporation of the institution to which it may have been committed.

L. 1909,
ch. 88,
§ 489,
subd. 5
amended.
Disposition
of vagrant
and desti-
tute chil-
dren.

Expense of
commit-
ment.

Notice of
commit-
ment dis-
pensed
with.

Defective
commit-
ments.

¹ As amended by L. 1912, ch. 169; L. 1917, ch. 430.

² Following sentence new.

If it shall appear to the board of managers, trustees or other officers in charge of any incorporated school, reformatory, charitable or other institution authorized by law to receive and take charge of minors to which any child has been committed pursuant to any of the provisions of this section or of section twenty-one hundred and ninety-four of the penal law or to the provisions of any general or special law that a child so committed is incorrigible and that his or her presence therein is seriously detrimental to the welfare of the institution or other children therein, or that any child after such commitment shall have been released on parole or probation from such institution and any of the terms or conditions of such release shall thereafter be violated, an application may be made by such board, trustees or officers at any time before such child shall attain the age of twenty-one years to the committing court or magistrate or to a justice of the supreme court in the judicial district in which the said institution is located, for an order for the transfer and commitment of said child to another incorporated school, reformatory or institution, authorized by law or designated by the state board of charities to take the custody of any such child and governed or controlled by persons of the same religious faith as the parents of the said child, when practicable, or if not practicable, to such public institution as shall be deemed suitable. Such application shall be by petition verified by an officer of the institution to which such child was originally committed and shall state the reasons therefor. On the filing of such petition the court, magistrate or justice may issue a warrant for the arrest and detention of such child pending such application. Due notice of such application with a copy of the petition shall be served personally or by mail at least eight days before the hearing, on the parents or guardian of said child and the officer of the locality chargeable for the support of such child and upon the hearing of said petition such court, magistrate or justice may grant such order of transfer and make such commitment if it appears that such transfer and commitment should be made; and thereupon such child shall be confined in the institution to which such transfer and commitment shall be made as upon the original commitment until released according to law. If the said child has been released upon parole or probation from any such institution for juveniles and has later been committed to an institution for adult delinquents, and is either serving a term of imprisonment in an institution for adult delinquents or has been released upon parole therefrom, and is actually at liberty under parole at the time the application is made to the court for an order for the transfer and commitment as hereinbefore provided, then notice of such application for transfer and commitment must also be served upon the warden, superintendent or keeper of the institution where the said child is undergoing imprisonment, or upon the official or officials holding jurisdiction over him while he is at liberty from such institution upon parole.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

Transfer
of incor-
rigible
child to
another
institu-
tion.

In effect
Sept. 1,
1922.

CHAPTER 96

AN ACT to amend the election law, in relation to membership of county committees.

Became a law March 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 22,
§ 37, as
added by
L. 1918,
ch. 820,
and
amended by
L. 1917,
ch. 708,
amended.

Section 1. Section thirty-seven of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," as added by chapter eight hundred and twenty of the laws of nineteen hundred and thirteen and last amended by chapter seven hundred and three of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

§ 37. **County committee.** The county committee of each party shall be constituted by the election in each election district within such county of at least two members,² and of such additional members as the rules and regulations of the party may provide for such district, proportional to the party vote in the district for governor at the last preceding gubernatorial election, or in case the boundaries of such district have been changed or a new district has been created since the last preceding gubernatorial election, proportionate to the party vote cast for member of assembly at the last preceding general election; and in any county having one million or more inhabitants, where the county committee of any party, by its rules and regulations, is constituted by the election of county committeemen from each election district proportionate to the party vote in such district, an additional member shall be elected at large from each assembly district or aldermanic district in such county, if the said county committee shall by its rules and regulations so provide. If, in any county, no additional members are provided for by rules and regulations, the voting power of each member shall be in proportion to such party vote. In a county in which additional members are so provided for, on the basis of the party vote in election districts, or from assembly or aldermanic districts, each member of the committee shall have one vote. Each member of a county committee shall be an enrolled voter of the party residing in the assembly or aldermanic district from which or in the assembly district containing the election district in which he is elected.

In case of the death, declination, disqualification, removal from district or removal from office of a member of the county committee, or the failure to elect a member, as by reason of a tie vote, the vacancy in such county committee caused thereby shall be filled by the remaining members of such county committee as provided in section forty-three of this chapter.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1916, ch. 104.

² Formerly "one member." The election law of 1909 (ch. 22) is repealed and a new election law enacted by L. 1922, ch. 588, post. The provisions of § 37, as here amended, are incorporated in said ch. 588, as § 12 thereof.

CHAPTER 97

AN ACT to amend chapter one hundred and forty-two of the laws of eighteen hundred and seventy-nine, entitled "An act to amend chapter one hundred and twenty-five of the laws of eighteen hundred and forty-two, entitled 'An act to condense and amend the several acts relating to the village of Albion,' and the several acts amendatory thereof," in relation to Mount Albion cemetery.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of title eight of chapter one hundred and forty-two of the laws of eighteen hundred and seventy-nine, entitled "An act to amend chapter one hundred and twenty-five of the laws of eighteen hundred and forty-two, entitled 'An act to condense and amend the several acts relating to the village of Albion,' and to the several acts amendatory thereof," as amended by chapter eighty-three of the laws of nineteen hundred and fourteen, is hereby amended to read as follows:

L. 1879,
ch. 142,
tit. 8, § 5,
as amended
by L. 1914,
ch. 82,
amended.

§ 5. All funds in the hands of said commissioners received as above provided, and not needed for immediate use or expended for the purposes above mentioned, shall be by them invested and kept by them invested in the public stocks or securities of the state of New York, or of the United States, or in the county bonds of the counties of Orleans, Niagara or Monroe, which may be duly issued by the lawful authorities of said counties or either of them, or upon bond and mortgage upon improved and unincumbered real estate, at two-thirds its value,¹ situate in said county of Orleans, and any of said funds waiting investment may be deposited in any national bank,² savings bank or trust company in the state of New York.

Investment of funds.

Funds waiting investment.

§ 2. This act shall take effect immediately.

CHAPTER 98

AN ACT authorizing Boston and Maine Railroad to merge with itself certain foreign railroad corporations operating wholly outside of the state of New York.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Boston and Maine Railroad, a corporation organized and existing under and pursuant to the laws of the states of New York, Maine and New Hampshire and the Commonwealth

Merger with certain named railroad corporations, authorized.

¹Formerly read: "one-third its value."

²Words "national bank" new.

of Massachusetts, is hereby authorized, from time to time, to merge with itself all or any of the following named railroad corporations (hereinafter designated as subsidiary corporations), each of which exists and is operated wholly outside of the state of New York:

1. The Sullivan County Railroad, a corporation organized under the laws of the state of New Hampshire, all of the capital stock of which is owned by the Vermont Valley Railroad, a corporation organized under the laws of the state of Vermont, all of the capital stock of which is owned by Boston and Maine Railroad;

2. Barre and Chelsea Railroad Company and Montpelier and Wells River Railroad, both organized under the laws of the state of Vermont, substantially the entire capital stock of each of which is owned by said Vermont Valley Railroad;

3. York Harbor and Beach Railroad Company, organized under the laws of the state of Maine, a majority of the capital stock of which is owned by Boston and Maine Railroad; and

4. The Saint Johnsbury and Lake Champlain Railroad Company, organized under the laws of the state of Vermont, a majority of the capital stock of which is owned by Boston and Maine Railroad.

Merger,
how
effected.

§ 2. To effect any such merger Boston and Maine Railroad shall cause to be filed, from time to time, in the office of the secretary of state and in the office of the clerk of the county of Rensselaer certificates, under its corporate seal and verified by its president, that it has merged with itself the property and franchises of any one or more of said subsidiary corporations, pursuant to the statutes of the state under whose laws each such subsidiary corporation is organized, together with proof that such merger has been approved by the public utilities commission or department, or by the public service commission of the state under whose laws such subsidiary corporation is organized. With such proof shall also be filed a certified copy of an order of the public service commission of the state of New York, approving the merger of any such subsidiary corporation with Boston and Maine Railroad and certifying that such merger is not inconsistent with the public interest.

Effect of
merger.

§ 3. Upon complying with the provisions of section two of this act Boston and Maine Railroad shall acquire and become possessed of all the estate, property, rights, privileges and franchises of such subsidiary corporation, and they shall vest in and be held and enjoyed by Boston and Maine Railroad as fully and entirely and without change or diminution as the same were before held and enjoyed by such subsidiary corporation, and shall be managed and controlled by Boston and Maine Railroad, which shall thenceforth be liable to pay all of the debts and to perform all of the duties of each such subsidiary corporation.

§ 4. This act shall take effect immediately.

CHAPTER 99

AN ACT to amend the conservation law, in relation to establishing game refuges.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and sixty-six of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter ninety-two of the laws of nineteen hundred and fourteen, and last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 366, as
added by
L. 1914,
ch. 92,
and
amended by
L. 1917,
ch. 499,
amended.

§ 366. **State game refuges.** Any land, including land under water and waters thereon, owned by the state, enclosed as defined by subdivision twenty-three of section three hundred and eighty of this chapter, except land in the 'Catskill park,' may be set aside by the conservation commission as a game refuge upon publishing the notice mentioned in section three hundred and sixty of this chapter and upon posting and maintaining notices and signboards not less than one foot square, warning all persons against hunting, fishing or injuring trees or plants or trespassing thereon for that purpose, ² provided, however, that not to exceed one hundred thousand acres in the aggregate shall be so set aside in the Adirondack park. 'And then only on the approval of the board of supervisors of the county in which the proposed game refuge is to be established. Signboards or notices may be posted warning all persons against any one or more of these acts mentioned above. All such signboards or notices shall be conspicuously posted and maintained on a state game refuge not more than forty rods apart close to and along the entire boundary thereof, and there shall be so placed at least one signboard or notice on each side and one at or near each corner of such game refuge. Where such game refuge shall consist of a well-defined body of water and the lands lying thereunder, the posting and maintaining of notices and signboards upon not less than ten prominent points upon the shore line shall be deemed sufficient notice. Where lands under water and the waters thereon are sought to be set aside as herein provided, the consent of the riparian owners must first be obtained.

The commission may purchase in the name of and for the use of the state in any town of the state outside the limits of the Adirondack and Catskill parks, lands containing not less than

¹ Words "Adirondack and" omitted.

² Word "park" substituted for word "parks."

³ Remainder of sentence new.

⁴ Following sentence new.

one hundred acres, or may purchase the shooting and fishing rights in connection with such lands, and may establish thereon a game refuge upon publishing and posting the notices as above provided. No person shall take or disturb fish, birds, quadrupeds, trees or plants on such game refuge or trespass thereon for that purpose after the notices are published and posted as above prescribed. Such land and waters shall remain a game refuge and private park for the propagation and protection of fish, birds, quadrupeds, trees and plants as long as such lands remain the property of the state, or until the commission shall, by order to be published in the manner prescribed by section three hundred and sixty, permit the taking of fish, birds, quadrupeds, trees or plants upon such premises.

§ 2. This act shall take effect immediately.

CHAPTER 100

AN ACT to amend the county law, in relation to compensation of deputy county treasurer in certain counties.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 18,
§ 141
amended.

Section 1. Section one hundred and forty-one of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows:

§ 141. **Deputy county treasurers in certain counties.** The county treasurer of any county, having a population of less than fifty thousand according to the last preceding state or federal census, may, when authorized by a resolution of the board of supervisors, appoint and at pleasure remove a deputy county treasurer, who shall perform all the duties and possess all the powers of a county treasurer, during his absence, or inability to act. The compensation of such deputy shall be paid by the treasurer out of the fees or salary allowed to him by law and shall not be a county charge,¹ or the board of supervisors of such county may, by resolution, fix the compensation of such deputy and make it a county charge. The appointment of such deputy shall not release the treasurer from any liability in relation to the moneys in his hands or under his control, or in any manner affect such liability, but any default by such deputy shall be deemed a default of such treasurer, and he shall be liable therefor. The undertaking of the county treasurer required by section one hundred and forty of this chapter given after this chapter take effect shall cover the acts and default of such deputy. In all other cases the county treasurer shall, before said deputy enters upon the discharge of his duties, give an undertaking with three or

¹ Remainder of sentence new.

more sufficient sureties to the effect that such deputy shall faithfully execute the duties of his office and shall not make default therein, the amount thereof to be fixed and the same to be approved as provided in section one hundred and forty of this chapter for the fixing of the amount and the approval of the undertaking of the county treasurer.

§ 2. This act shall take effect immediately.

CHAPTER 101

AN ACT to amend the conservation law, in relation to the taking of water fowl.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section two hundred and eleven of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter five hundred and twenty-one of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 211,
subd. 3,
as added by
L. 1912,
ch. 318,
and
amended by
L. 1916,
ch. 521,
amended.

3. Manner of taking. Water fowl may be taken during the open season from half an hour before sunrise to sunset² from the land, from a blind or floating device used to conceal the hunter (other than a sail or power boat), from a rowboat, when the same is within fifty feet of the shore or a natural growth of flags or in pursuit of wounded birds. Flocks of ducks shall not be pursued in fresh water so as to drive them away from any neighborhood.

§ 2. Subdivision two of section two hundred and twelve of such chapter, such section having been added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter five hundred and forty-eight of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

§ 212,
subd. 2,
as added by
L. 1912,
ch. 318,
and
amended by
L. 1921,
ch. 548,
amended.

2. Manner of taking. Except as prohibited by section two hundred and twenty-two, water fowl may be taken during the open season therefor from half an hour before sunrise to sunset² by aid of any floating device other than sailboats or power boats, at any distance from shore on Long Island sound, Lake Erie, Niagara river, Chautauqua lake, Lake Ontario, Oneida lake, Shinnecock, Gardiner, Peconic, Reeves and Flanders bays and

¹ Previously amended by L. 1913, ch. 508.

² Words "from half an hour before sunrise to sunset," new.

³ Previously amended by L. 1917, ch. 486; L. 1919, ch. 1; L. 1920, ch. 218; L. 1921, ch. 185.

in Great South bay west of Smith's point and east of the Nassau-Suffolk county line. On the Hudson river, and lakes, ponds and streams or parts thereof in counties bordering on the Hudson river, or through which such river passes, water fowl may be taken during the open season therefor by aid of any floating device other than sailboats, power boats, or batteries at any distance from shore.

§ 3. This act shall take effect immediately.

CHAPTER 102

AN ACT authorizing the transit commission to extend for a further period of one year the operation of the street railway line of the Nassau Electric Railroad Company, in the borough of Brooklyn, commonly known as the Church avenue line, without exchanging transfers with connecting lines, notwithstanding the provisions of any charter, franchise, agreement or statute.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The transit commission on its own motion or on application made, may, if in its opinion the public interest will be served thereby, make an order suspending and waiving the provisions of any charter or franchise or agreement whereby the Nassau Electric Railroad Company in operating the street railway line commonly known as the Church avenue line, is obliged to issue, receive or exchange transfers to and from connecting lines and permitting during such period whoever is operating said railroad along said line to operate without issuing, receiving or exchanging such transfers, notwithstanding the provisions of any special or general law. Such order shall remain in effect for such period, additional to that authorized by chapter two hundred and thirty-three of the laws of nineteen hundred and twenty-one, as the transit commission may prescribe, not exceeding one year.

§ 2. This act shall take effect immediately.

CHAPTER 103

AN ACT to amend chapter two hundred and fourteen of the laws of nineteen hundred and four, entitled "An act to make the office of sheriff of Orange county a salaried office and to regulate the management of said office," generally.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine of chapter two hundred and fourteen of the laws of nineteen hundred and four, entitled "An act to

make the office of sheriff of Orange county a salaried office, and to regulate the management of said office," as amended by chapter five hundred and seventy-seven of the laws of nineteen hundred and nine, is hereby amended to read as follows:

§ 9. ¹The said sheriff shall appoint an under-sheriff and a janitor for the Newburgh court house, and a jailer and a deputy sheriff for the Goshen jail. The salary of the under-sheriff shall be twenty-five hundred dollars per annum. The salary of the jailer shall be thirteen hundred and fifty dollars per annum. The salary of the deputy sheriff shall be eighteen hundred dollars per annum. The salary of the janitor shall be fixed by the board of supervisors.

In addition to the foregoing named officers the sheriff may employ at the expense of the county, such other persons as may be necessary for the performance of his duties. The employment of such persons is to be approved and their compensation is to be fixed by said auditing committee. Each of such persons appointed by the said sheriff shall hold office during his pleasure, and he shall be responsible for all of their official acts. The salaries ² of all persons appointed by said sheriff shall be paid monthly by the county treasurer.

§ 2. This act shall take effect immediately.

CHAPTER 104

AN ACT to amend chapter five hundred and sixty-eight of the laws of nineteen hundred and twenty-one, entitled "An act to provide a more uniform retirement plan for state employees, under the provision of the New York state employees' retirement system, and to repeal certain acts and parts of acts providing for other retirement systems," in relation to teachers in the State Agricultural and Industrial School.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter five hundred and sixty-eight of the laws of nineteen hundred and twenty-one, entitled "An act to provide a more uniform retirement plan for state employees, under the provision of the New York state employees' retirement system, and to repeal certain acts and parts of acts providing for other retirement systems," is hereby amended to read as follows:

§ 1. All state employees, except teachers in the State College for Teachers and the State Normal schools and teachers in the State Agricultural and Industrial School ³ who shall be considered as teachers subject to the provisions of article forty-three-b of the

¹ Following paragraph materially amended.

² Word "salaries" substituted for word "salary."

³ Words "and teachers in the State Agricultural and Industrial School," new.

amended by
L. 1909,
ch. 577,
amended.

Appointments
of sheriff;
salaries.

Other em-
ployees.

Tenure of
office.
Sheriff re-
sponsible
for acts.
Salaries
payable
monthly.

L. 1921,
ch. 568,
§ 1
amended.

State em-
ployees,
included
under other
pension
acts, may
become
members of
state sys-
tem; excep-
tions.

education law, and, except such state employees as are otherwise provided for by the insanity law and the prison law, who are included under the provisions of any law repealed by section six of this act, who elect to become members of the New York State Employees' Retirement System on or before January first, nineteen hundred and twenty-two, shall become members of such system and shall be subject to all the provisions of law relative to such system with the exception that they shall be entitled to credit for prior service as defined by section fifty-three of article four of the civil service law, including service as a grand jury stenographer, up to and including July first, nineteen hundred and twenty-one. All war veterans, now in state service, entitled to benefit under the provisions of section twenty-one-a of the civil service law or subdivision eight of section three of the public buildings law are also given the right to elect to become members of the New York State Employees' Retirement System, and to be covered by all of the provisions of law relative thereto.

Prior
service.

War
veterans
included.

§ 2. This act shall take effect immediately.

CHAPTER 105

AN ACT to amend the town law, in relation to notices of special town meetings.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 63,
§ 47
amended.

Section 1. Section forty-seven of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," is hereby amended to read as follows:

§ 47. **Notices of town meeting.** No previous notice need be given of the biennial town meetings; but the town clerk shall, at least twenty days before the holding of any special town meeting cause notice thereof, under his hand, to be posted conspicuously in at least four of the most public places in the town and to be published once in each week for two consecutive weeks immediately prior to such special town meeting in two newspapers published in such town; if there be but one newspaper published in such town then in such newspaper and in a¹ newspaper, published in the county, having² circulation in such town, or if there be no newspaper published in such town then in² two newspapers published in the county, having² circulation in such town; which notices shall specify the time, place and purposes of the meeting.

§ 2. This act shall take effect immediately.

¹ Word "a" substituted for word "the."

² Words "the largest" omitted.

³ Word "the" omitted.

CHAPTER 106

AN ACT making appropriations for the support of government.¹

Became a law March 11, 1922, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The several amounts named in this section, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the year beginning on the first day of July, nineteen hundred and twenty-two, namely:

Appropriations for fiscal year.

EXECUTIVE EXECUTIVE DEPARTMENT PERSONAL SERVICE

Governor	\$10,000 00
Secretary to the governor	7,000 00
Also acts as secretary to trustees of public buildings and secretary charities building improvement commission.	
Assistant secretary	4,000 00
Military secretary to the governor	3,500 00
Also acts as keeper and recorder of legislative bills.	
Counsel to the governor	5,500 00
Executive legal assistant	5,000 00
Executive officer	4,000 00
Notarial clerk	2,300 00
Journal clerk	2,000 00
Document clerk	1,650 00
File and index clerk	1,050 00
Clerk	900 00
Attendant	2,000 00
Hearing stenographer	3,000 00
Chief stenographer and chief clerk	2,000 00
Stenographer	2,000 00
Stenographer and clerk	1,700 00
Stenographer and clerk	1,500 00
Stenographer, 3 at \$1,800	5,400 00
Messenger	1,500 00
Telephone operator and clerk	1,500 00
Relief telephone operator and assistant file clerk	1,050 00
Temporary services	2,000 00

MAINTENANCE AND OPERATION

Printing	
General	2,000 00
Reports and messages	1,000 00
Equipment and supplies	4,500 00
Traveling expenses, including traveling outside the state	5,000 00
Communication	5,000 00
Fixed charges and contributions	
For incidental expenses of the executive mansion and equipage to be paid in equal monthly installments by the comptroller on certificate of the governor or the secretary to the governor	6,000 00
Contingencies	500 00

¹For appropriations for the support of government in addition to those provided by this chapter, see L. 1922, ch. 397, post.

EXECUTIVE

EXECUTIVE DEPARTMENT—*Continued*

OFFICE OF LIEUTENANT-GOVERNOR

PERSONAL SERVICE

Lieutenant-governor	5,000 00
Secretary to the lieutenant-governor.....	4,000 00

ADMINISTRATIVE

SECRETARY OF STATE

PERSONAL SERVICE

Secretary of state	8,000 00
Deputy secretary of state.....	5,000 00
Chief clerk or second deputy.....	4,500 00
Examiner of corporations	4,000 00
Certificate and election clerk.....	3,300 00
Land clerk	3,000 00
Editor of legislative manual and session laws.....	3,000 00
Confidential file and index clerk.....	2,200 00
Assistant examiner of corporations	2,750 00
Assistant examiner of corporations and assistant land clerk....	2,400 00
Clerk and cashier	1,700 00
Clerk and assistant cashier	1,400 00
Clerk, 2 at \$1,800	3,600 00
Clerk	1,600 00
Clerk	1,500 00
Clerk, 2 at \$1,380	2,760 00
Clerk, 2 at \$1,200.....	2,400 00
Clerk	1,140 00
Clerk	1,080 00
Clerk	1,000 00
Clerk or filing clerk	900 00
Clerk and stenographer	1,600 00
Clerk and stenographer	1,440 00
Clerk and stenographer	1,400 00
Clerk and stenographer	1,380 00
Stenographer	1,800 00
Stenographer and assistant to clerk of land office.....	1,600 00
Stenographer	1,500 00
Stenographer, 2 at \$1,400	2,800 00
Stenographer or typewriter copyist, 4 at \$1,200.....	4,800 00
Stenographer or typewriter copyist.....	1,080 00
Stenographer or typewriter copyist, 2 at \$1,020.....	2,040 00
Stenographer or typewriter copyist, 6 at \$960.....	5,760 00
Stenographer or typewriter copyist, 5 at \$840.....	4,200 00
Stenographer or typewriter copyist, 3 at \$780.....	2,340 00
Telephone operator	1,140 00
Messenger and multigraph operator.....	960 00
Laborer or mail clerk	1,500 00
Laborer, 2 at \$1,200	2,400 00
Temporary services	1,000 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	4,500 00
Legislative manual	12,500 00
Session laws and slips	22,000 00
Election	75,000 00
Publication of official notices.....	50,000 00
Equipment, supplies and materials.....	9,000 00

ADMINISTRATIVE

SECRETARY OF STATE — *Continued*

Traveling expenses .	
Officials and employees	1,000 00
Secretary of state, payable quarterly in lieu of all expenses..	2,500 00
Communication	10,000 00
Fixed charges and contributions	
Retired veterans	600 00
Surrogates' fees	300 00
Miscellaneous	50 00

STATE COMPTROLLER

PERSONAL SERVICE

Comptroller	10,000 00
Deputy comptroller	7,000 00
Deputy comptroller, 2 at \$6,000	12,000 00
Deputy comptroller and warrant clerk	6,000 00
Secretary to comptroller	4,000 00
Auditor of revenue	3,500 00
Auditor	4,500 00
Auditor	4,000 00
Auditor	3,600 00
Auditor	3,500 00
Auditor, 3 at \$2,700	8,100 00
Auditor or clerk, 3 at \$3,000	9,000 00
Auditor or clerk, 2 at \$2,700	5,400 00
Supervising accountant	5,500 00
Chief accountant	3,400 00
Leveler	2,300 00
Director (municipal accounts, court and trust fund and license bureau)	5,000 00
Assistant director (municipal accounts, court and trust fund and license bureau)	4,000 00
Supervising examiner	4,500 00
Confidential examiner	3,000 00
Examiner	3,000 00
Municipal accounts examiner and statistician	4,000 00
Municipal accounts examiner	2,400 00
Municipal accounts examiner, \$14 per day, 305 days	4,270 00
Municipal accounts examiner, \$12 per day, 915 days	10,980 00
Municipal accounts examiner, \$11 per day, 1,830 days	20,130 00
Municipal accounts examiner, \$10 per day, 1,220 days	12,200 00
Municipal accounts examiner, \$9 per day, 1,525 days	13,725 00
Court and trust fund examiners, \$12 per day, 610 days	7,320 00
Court and trust fund examiners, \$11 per day, 610 days	6,710 00
Court and trust fund examiners, \$10 per day, 2,440 days	24,460 00
Voucher clerk and auditor	5,500 00
Assistant warrant clerk and assistant deputy	4,500 00
Managing clerk	4,000 00
Division chief	5,000 00
Division chief	4,500 00
Clerk and assistant deputy	3,850 00
Entry clerk	3,100 00
Filing clerk	1,400 00
Clerk	2,700 00
Clerk	2,600 00
Clerk, 3 at \$2,500	7,500 00
Clerk	2,300 00
Clerk, 4 at \$2,100	8,400 00
Clerk, 3 at \$2,000	6,000 00
Clerk, 5 at \$1,900	9,500 00
Clerk	1,800 00

ADMINISTRATIVE

STATE COMPTROLLER — *Continued*

Clerk, 9 at \$1,700.....	15,300 00
Clerk, 2 at \$1,800.....	3,200 00
Clerk, 6 at \$1,500.....	9,000 00
Clerk, 3 at \$1,400.....	4,200 00
Clerk.....	1,320 00
Clerk.....	1,200 00
Clerk.....	1,000 00
Clerk, 4 at \$900.....	3,600 00
Clerk or page.....	600 00
Stenographer or managing clerk.....	3,500 00
Stenographer to comptroller.....	2,000 00
Stenographer to deputy comptroller, 2 at \$1,500.....	3,000 00
Stenographer.....	2,000 00
Stenographer.....	1,700 00
Stenographer.....	1,600 00
Stenographer, 2 at \$1,500.....	3,000 00
Stenographer, 3 at \$1,400.....	4,200 00
Stenographer, 2 at \$1,320.....	2,640 00
Stenographer.....	1,240 00
Stenographer.....	1,200 00
Stenographer.....	1,080 00
Detective agent, 5 at \$2,000.....	10,000 00
Bank messenger.....	1,600 00
Telephone operator.....	1,500 00
Laborer.....	1,700 00
Laborer.....	1,500 00
Laborer.....	909 00
Temporary services.....	2,000 00
Retirement system bureau	
Director.....	4,000 00
Auditor of accounts.....	2,500 00
Clerk.....	1,700 00
Clerk.....	1,600 00
Clerk.....	1,500 00
Clerk, 2 at \$1,300.....	2,600 00
Clerk, 2 at \$1,200.....	2,400 00
Junior clerk.....	720 00
Stenographer.....	1,500 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer.....	1,000 00
Temporary and special services:	
Medical board.....	2,000 00
Actuarial service.....	3,500 00

MAINTENANCE AND OPERATION

Printing and advertising	
General.....	12,000 00
Reports and bulletins.....	9,000 00
Equipment, supplies and materials.....	22,500 00
Traveling expenses	
Departmental, including traveling outside the state.....	39,500 00
Comptroller, in lieu of all expenses.....	2,500 00
Communication.....	10,000 00
Fixed charges and contributions	
Interest on temporary loans.....	5,000 00
Land account.....	1,500 00
Retired veterans, including those from excise department.....	4,900 00
Expense of transfer office.....	4,000 00
Rent	
New York city office.....	3,000 00
Safety vaults.....	1,675 00
Contingencies.....	2,000 00

**ADMINISTRATIVE
STATE TREASURER
PERSONAL SERVICE**

Treasurer	8,000 00
Deputy treasurer	5,000 00
Auditor and paying teller	4,000 00
Cashier	4,000 00
Assistant cashier	3,000 00
Accountant and transfer officer	2,500 00
Chief clerk	2,100 00
Bond clerk	2,100 00
Clerk	1,920 00
Clerk or junior accountant	1,600 00
Check clerk	1,380 00
Clerk	1,200 00
Clerk or typist	900 00
Stenographer to treasurer	1,600 00
Stenographer	1,200 00
Messenger	1,320 00
Telephone operator	990 00
Temporary services	800 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	4,050 00
Departmental report	200 00
Equipment, supplies and materials	1,400 00
Traveling expenses, not more than \$400 of which may be used for traveling outside the state	1,150 00
Communication	1,750 00
Fixed charges and contributions	
Surety bonds	750 00
Refunds	500 00

**ATTORNEY-GENERAL
PERSONAL SERVICE**

Attorney-general	10,000 00
First deputy	8,000 00
Second deputy	6,000 00
Third deputy	6,000 00
Deputy	6,500 00
Deputy, 6 at \$6,000	36,000 00
Deputy, 3 at \$5,500	16,500 00
Deputy, 10 at \$5,000	50,000 00
Deputy, hospitals	5,000 00
Deputy, 7 at \$4,500	31,500 00
Deputy, 4 at \$4,200	16,800 00
Deputy, 2 at \$3,500	7,000 00
Deputy and examiner of titles	4,250 00
Assistant deputy	4,750 00
Assistant deputy	4,000 00
Attorney	3,500 00
Chief of land bureau	4,500 00
Land and opinion clerk	3,500 00
Private secretary	3,500 00
Librarian	2,300 00
Clerk	3,500 00
Law clerk	2,100 00
Clerk	1,200 00
Financial clerk	1,600 00
Confidential clerk	2,000 00
Assistant to record clerk	1,800 00

ADMINISTRATIVE

ATTORNEY-GENERAL — *Continued*

Hearing stenographer	3,250 00
Stenographer and record clerk.....	2,750 00
Stenographer and record clerk.....	2,250 00
Stenographer	2,350 00
Stenographer to attorney-general.....	2,200 00
Assistant to stenographer in charge.....	1,800 00
Stenographer and clerk.....	1,800 00
Secretary-stenographer	1,500 00
Stenographer	1,620 00
Stenographer and clerk, 2 at \$1,500.....	3,000 00
Stenographer	1,800 00
Stenographer, 9 at \$1,500.....	13,500 00
Stenographer, 3 at \$1,320.....	3,960 00
Stenographer, 4 at \$1,200.....	4,800 00
Stenographer, 2 at \$1,020.....	2,040 00
Stenographer	780 00
Confidential messenger	1,600 00
Messenger, 2 at \$1,440.....	2,880 00
Special investigator, 4 at \$1,850.....	7,400 00
Process server	1,850 00
Telephone operator, 2 at \$1,320.....	2,640 00
Relief telephone operator and clerk.....	1,200 00
Laborer	1,000 00
Laborer, 2 at \$900.....	1,800 00
Temporary services	1,000 00
Excise bureau	
Deputy	6,000 00
Accountant and special examiner.....	3,500 00
Stenographer and docket clerk.....	1,500 00
Stenographer	1,320 00
Labor department bureau	
Deputy	5,500 00
Assistant deputy, 4 at \$3,000.....	12,000 00
Law clerk	1,800 00
Chief clerk and stenographer.....	1,800 00
Clerk	1,650 00
Clerk	1,440 00
Record clerk	1,200 00
Stenographer, 2 at \$1,500.....	3,000 00
Stenographer	1,200 00
Messenger	1,000 00

MAINTENANCE AND OPERATION

Printing	
General	16,000 00
Departmental reports and bulletins.....	1,500 00
Equipment, supplies and materials.....	8,000 00
Traveling expenses	
Officials and employees (including expenses of traveling out- side the state)	19,000 00
Attorney-general's expenses in lieu of all expenses.....	2,400 00
Communication	6,900 00
Rents	5,750 00
Contingencies	
Special deputies, investigators, referees and witnesses.....	18,800 00
Agricultural counsel	6,250 00
Costs of suits.....	3,000 00
General	500 00
Maintenance undistributed	
Expenses re titles to lands under water.....	10,000 00

**ADMINISTRATIVE
CIVIL SERVICE COMMISSION
PERSONAL SERVICE**

Commissioner, 3 at \$5,000.....	15,000 00
Secretary	4,500 00
Assistant secretary	3,500 00
Chief clerk, payroll bureau.....	2,350 00
Chief examiner	4,000 00
Assistant chief examiner.....	3,000 00
Examiner	3,000 00
Examiner	2,800 00
Examiner	2,500 00
Examiner	1,900 00
Examiner	1,500 00
Clerk or examiner.....	1,320 00
Clerk or examiner.....	1,200 00
Clerk or examiner.....	900 00
Clerk, examiner or stenographer.....	900 00
Clerk	1,800 00
Clerk	1,440 00
Clerk	1,200 00
Hearing stenographer or secretarial clerk.....	2,000 00
Stenographer, 3 at \$1,440.....	4,320 00
Stenographer	1,320 00
Stenographer	1,020 00
Stenographer or clerk	1,080 00
Clerk, stenographer or typewriter copyist, 2 at \$1,080.....	2,160 00
Clerk, stenographer or typewriter copyist, 2 at \$960.....	1,920 00
Clerk, stenographer or typewriter copyist, 2 at \$900.....	1,800 00
Clerk, stenographer or typewriter copyist.....	840 00
Telephone operator and clerk.....	1,200 00
Messenger or clerk.....	720 00
Temporary services	10,000 00

MAINTENANCE AND OPERATION

Printing	
General	3,200 00
Departmental reports and bulletins.....	1,000 00
Equipment, supplies and materials.....	1,500 00
Traveling expenses, not more than \$1,500 of which may be used for traveling outside of state.....	6,000 00
Communication	3,000 00

BOARD OF ESTIMATE AND CONTROL

PERSONAL SERVICE

Research director	9,000 00
Secretary to research director.....	1,800 00
Stenographer	1,700 00
Deputy director	4,250 00
Clerk	2,000 00
Clerk	1,800 00
Clerk, 2 at \$1,320.....	2,640 00
Clerk	1,000 00
Stenographer	1,320 00
Temporary services	
Printing inspectors	400 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation including per- sonal service in addition to that appropriated elsewhere and traveling outside the state.....	35,600 00
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LEGISLATIVE
THE LEGISLATURE
THE SENATE
PERSONAL SERVICE

Member, 51 at \$1,500.....	76,500 00
Administration	
Clerk	3,500 00
Assistant clerk	2,500 00
Journal clerk	2,500 00
Assistant journal clerk.....	1,500 00
Assistant journal clerk.....	1,000 00
Chief deputy clerk.....	1,500 00
Deputy clerk, 4 at \$1,000.....	4,000 00
Financial clerk	1,500 00
Index clerk	2,000 00
Assistant index clerk.....	1,500 00
Sergeant-at-arms	2,000 00
Official stenographer	2,500 00
Revision clerk	1,500 00
Executive clerk	2,000 00
Telephone operator, 2 at \$1,095 each per annum.....	2,190 00
Per diem officers and employees, based on 110 days' session	
Salaries, temporary	
Assistant sergeant-at-arms, at \$8.....	880 00
Assistant financial clerk, at \$10.....	1,100 00
Financial clerk's messenger, at \$5.....	550 00
Principal doorkeeper, at \$8.....	880 00
Assistant doorkeeper, 11 at \$5.....	6,050 00
Stenographer to president, at \$5.....	550 00
Messenger to president, at \$3.....	330 00
Clerk to temporary president, at \$10.....	1,100 00
Messenger to temporary president, at \$3.....	330 00
Stenographer to temporary president, at \$7.....	770 00
Stenographer to temporary president, at \$5.....	550 00
Assistant deputy clerk, at \$10.....	1,100 00
Messenger to clerk, at \$3.....	330 00
Superintendent of documents, at \$5.....	550 00
Assistant superintendent of documents, 4 at \$5.....	2,200 00
Superintendent of wrapping, at \$7.....	770 00
Assistant superintendent of wrapping, 4 at \$5.....	2,200 00
Postmaster, at \$10.....	1,100 00
Assistant postmaster, at \$8	880 00
Post-office messenger, at \$5.....	550 00
Janitor, at \$5.....	550 00
Assistant janitor, 2 at \$5.....	1,100 00
Clerk to minority leader, at \$10.....	1,100 00
Committee clerk, 11 at \$10.....	12,100 00
Committee clerk, 20 at \$5.....	11,000 00
General clerk, 3 at \$10.....	3,300 00
General clerk, 35 at \$5.....	19,250 00
Stenographer, 5 at \$7.....	3,850 00
Stenographer, 30 at \$5.....	16,500 00
Messenger, 25 at \$3.....	8,250 00
Page, 15 at \$2.....	3,300 00
Temporary services	6,000 00
By resolution	
Salaries, temporary	
Clerk, assistant, 90 days at \$20.....	1,800 00
Deputy clerk, 3 for 255 days at \$10.....	7,650 00
Superintendent wrapping department, 255 days at \$7.....	1,785 00

LEGISLATIVE

SENATE — *Continued*

Assistant superintendent wrapping department, 255 days at \$5	1,275 00
Superintendent documents, 255 days at \$5.....	1,275 00
Assistant superintendent documents, 255 days at \$5.....	1,275 00
Clerk's stenographer, 255 days at \$5.....	1,275 00
General clerk or stenographer, 255 days at \$5.....	1,275 00
Messenger, 3 for 255 days at \$3.....	2,295 00
Statutory	
Salaries, temporary	
Indexing journals, bills and documents.....	500 00
Supplemental index to journals, bills and documents, et cetera	500 00
Extra clerical services and engrossing.....	500 00
Officers and employees to open session	
Salaries, temporary	
Clerk, 8 days at \$38.88.....	311 04
Assistant clerk, 8 days at \$27.77.....	222 16
Journal clerk, 8 days at \$27.77.....	222 16
General clerk, 8 days at \$10.....	80 00
Sergeant-at-arms, 8 days at \$22.22.....	177 76
Postmaster, 8 days at \$10.....	80 00
Financial clerk, 8 days at \$16.66.....	133 28
Index clerk, 8 days at \$22.22.....	177 76
Stenographer, 8 days at \$27.77.....	222 16
Principal doorkeeper, 8 days at \$8.....	64 00
Assistant doorkeeper, 8 days at \$5.....	40 00
Page, 4 for 8 days at \$2.....	64 00
Officers and employees to remain after adjournment	
Salaries, temporary	
Clerk, 30 days at \$38.88.....	1,166 40
Assistant clerk, 30 days at \$27.77.....	833 10
Journal clerk, 30 days at \$27.77.....	833 10
Financial clerk, 30 days at \$16.66.....	499 80
Index clerk, 30 days at \$22.22.....	666 60
Assistant index clerk, 30 days at \$16.66.....	499 80
By resolution to close up affairs of senate after adjournment	
Assistant journal clerk, 30 days at \$16.66.....	499 80
Chief deputy clerk, 30 days at \$16.66.....	499 80
Chief revision clerk, 30 days at \$16.66.....	499 80
Postmaster, 30 days at \$10.....	300 00
Temporary president's stenographer, 30 days at \$7.....	210 00
Minority leader's stenographer, 30 days at \$5.....	150 00
City bill clerk, 30 days at \$5.....	150 00
Committee clerk, 2 for 30 days each at \$10.....	600 00
Journal clerk's stenographer, 30 days at \$5.....	150 00
General clerk, 3 for 30 days each at \$5.....	450 00
General stenographer, 3 for 30 days each at \$5.....	450 00
General messenger, 3 for 30 days each at \$3.....	270 00

MAINTENANCE AND OPERATION

Food	
Lunches for senate.....	300 00
Printing	12,500 00
Equipment and supplies.....	27,000 00
Traveling expenses	
Mileage of senators.....	1,900 00
Communication	10,400 00
Fixed charges and contributions.....	500 00
Rent	750 00
Contingencies	3,000 00

LEGISLATIVE
THE ASSEMBLY
PERSONAL SERVICE

Assembly	
Member, 150 at \$1,500.....	225,000 00
Administration	
Clerk	3,500 00
Assistant clerk	2,500 00
Journal clerk	2,500 00
First assistant journal clerk.....	1,500 00
Second assistant journal clerk.....	1,000 00
Deputy clerk, 2 at \$1,500.....	3,000 00
Deputy clerk, 10 at \$1,000.....	10,000 00
Assistant clerk, committee on engrossed bills.....	1,000 00
Financial clerk	1,500 00
Index clerk	2,000 00
First assistant index clerk.....	1,500 00
Second assistant index clerk.....	1,000 00
Sergeant-at-arms	2,000 00
Stenographer	2,500 00
Telephone operator, 2 at \$1,095 each per annum.....	2,190 00
Per diem officers and employees based on 110 days' session	
Salaries, temporary	
Speaker's clerk, at \$10.....	1,100 00
Speaker's stenographer, at \$7.....	770 00
Speaker's messenger, at \$5.....	550 00
Clerk's secretary, at \$8.50.....	935 00
Confidential clerk, at \$6.....	660 00
Assistant financial clerk, at \$10.....	1,100 00
Supply clerk, at \$6.....	660 00
Postmaster, at \$10.....	1,100 00
Assistant postmaster, at \$8.....	880 00
Principal doorkeeper, at \$8.....	880 00
Assistant doorkeeper, 14 at \$5.....	7,700 00
Majority leader's clerk, at \$10.....	1,100 00
Minority leader's clerk, at \$10.....	1,100 00
Ways and means minority clerk, at \$10.....	1,100 00
Committee clerk, 11 at \$10.....	12,100 00
Committee clerk, 26 at \$5.....	14,300 00
Committee clerk, 3 at \$8.....	2,640 00
Chief of general clerks, at \$10.....	1,100 00
General clerk, 17 at \$5.....	9,350 00
Majority leader's stenographer, at \$5.....	550 00
Minority leader's stenographer, at \$5.....	550 00
Stenographer, 15 at \$5.....	8,250 00
General stenographer, 10 at \$3.....	3,300 00
Superintendent, wrapping department, at \$7.....	770 00
Assistant superintendent, wrapping department, 5 at \$5....	2,750 00
Superintendent of documents, at \$10.....	1,100 00
Assistant superintendent of documents, 5 at \$5.....	2,750 00
Mail and document carrier, at \$5.....	550 00
Process server, at \$5.....	550 00
Chief messenger, at \$7.....	770 00
Majority leader's messenger, at \$5.....	550 00
Minority leader's messenger, at \$5.....	550 00
Messenger to committees, 14 at \$5.....	7,700 00
Messenger, 24 at \$3.....	7,920 00
Tally clerk, at \$5.....	550 00
Custodian of press records, at \$3.....	330 00
Page, 20 at \$2.....	4,400 00
Janitor, at \$5.....	550 00
Assistant janitor, 4 at \$5.....	2,200 00

LEGISLATIVE

ASSEMBLY — *Continued*

Special service, chaplain and band.....	800 00
Temporary services	6,000 00
By resolution	
Journal clerk, 45 days at \$25.....	1,125 00
First assistant journal clerk, 225 days at \$10.....	2,550 00
Second assistant journal clerk, 255 days at \$5.....	1,275 00
Clerk's secretary, 255 days at \$8.50.....	2,167 50
Confidential clerk, 255 days at \$6.....	1,530 00
Supply clerk, 255 days at \$6.....	1,530 00
General clerk, 3 for 255 days at \$5.....	3,825 00
Superintendent, wrapping department, 255 days at \$7....	1,785 00
Assistant superintendent, wrapping department, 2 for 255 days at \$5.....	2,550 00
Speaker's messenger, 255 days at \$5.....	1,275 00
Messenger to majority leader, 255 days at \$5.....	1,275 00
Chief messenger, 255 days at \$7.....	1,785 00
Messenger, 4 for 255 days at \$3.....	3,060 00
Posting notices committee hearings.....	300 00
Statutory	
Salaries, temporary	
Indexing journals, bills, et cetera.....	750 00
Supplemental index journals, bills, et cetera.....	1,300 00
Extra clerical services and engrossing.....	750 00
Statutory officers and employees to open session	
Salaries, temporary	
Clerk, 8 days at \$38.88.....	311 04
Assistant clerk, 16 days at \$27.77.....	444 32
Journal clerk, 8 days at \$27.77.....	222 16
Speaker's clerk, 8 days at \$10.....	80 00
Sergeant-at-arms, 8 days at \$22.22.....	177 76
Financial clerk, 8 days at \$16.66.....	133 28
Postmaster, 8 days at \$10.....	80 00
Assistant postmaster, 8 days at \$8.....	64 00
Index clerk, 8 days at \$22.22.....	177 76
Stenographer, 8 days at \$27.77.....	222 16
Principal doorkeeper, 8 days at \$8.....	64 00
Assistant doorkeeper, 3 for 8 days at \$5.....	120 00
Messenger, 2 for 8 days at \$5.....	80 00
Page, 6 for 8 days at \$2.....	96 00
Statutory officers and employees to remain after adjournment	
Salaries, temporary	
Clerk, 30 days at \$38.88.....	1,166 40
Assistant clerk, 30 days at \$27.77.....	833 10
Journal clerk, 30 days at \$27.77.....	833 10
Index clerk, 30 days at \$22.22.....	666 60
Deputy clerk, 2 for 30 days at \$16.66.....	999 60
By resolution to close up affairs of assembly after adjournment	
Deputy clerk, 30 days at \$11.11.....	333 30
Financial clerk, 30 days at \$16.66.....	499 80
Second assistant index clerk, 30 days at \$11.11.....	333 30
Speaker's clerk, 30 days at \$10.....	300 00
Speaker's stenographer, 30 days at \$7.....	210 00
Majority leader's clerk, 30 days at \$10.....	300 00
Majority leader's stenographer, 30 days at \$5.....	150 00
Minority leader's clerk, 30 days at \$10.....	300 00
Minority leader's stenographer, 30 days at \$5.....	150 00
Minority leader's messenger, 30 days at \$5.....	150 00
Ways and means committee clerk, 30 days at \$10.....	300 00
Postmaster, 15 days at \$10.....	150 00
Assistant financial clerk, 10 days at \$10.....	100 00
Superintendent of documents, 30 days at \$10.....	300 00

LEGISLATIVE

ASSEMBLY — *Continued*

MAINTENANCE AND OPERATION

Food, lunches for members of assembly.....	500 00
Fuel, light, power and water.....	25 00
Equipment and supplies.....	46,000 00
Traveling expenses	
Mileage of members.....	5,200 00
Communication.....	24,600 00
Fixed charges and contributions.....	25 00
Rent.....	1,000 00
Contingencies.....	2,500 00

SENATE AND ASSEMBLY JOINTLY

MAINTENANCE AND OPERATION

Printing, reports, bulletins, bills, et cetera:	
Senate and assembly bills.....	60,000 00
Additional copies by resolution.....	10,000 00
Senate and assembly calendars.....	4,000 00
Senate and assembly engrossed bills.....	10,000 00
Binding senate and assembly bills, journals, calendars and documents for libraries.....	4,500 00
Senate and assembly journals.....	10,000 00
Miscellaneous documents, messages and reports of standing committees.....	10,000 00
Legislative contingent fund, payable only on audit of the comptroller, after approval by the chairman of the committee, the speaker of the assembly and the president pro tempore of the senate.....	50,000 00
For supervision of restaurant for convenience of senate and assembly, to be paid on certificate of a majority of the trustees of public buildings.....	1,000 00

FINANCE AND WAYS AND MEANS COMMITTEES — BUDGET DIVISION

For the committee on finance of the senate and the committee on ways and means of the assembly, payable on the approval of the chairman of the respective committees, one-half to each committee:

PERSONAL SERVICE

Budget secretary, 2 at \$5,000.....	10,000 00
Accountant, 2 at \$2,500.....	5,000 00
Hearing stenographer.....	2,100 00
Stenographer.....	1,700 00
Additional expert or other services.....	5,000 00

MAINTENANCE AND OPERATION

Printing.....	500 00
Traveling expenses	
Members of committees, budget secretaries and other employees (including maintenance or hiring of automobile or automobiles, the employment of a chauffeur and expenses of chairmen at Albany during the recess of the legislature, and traveling outside of the state).....	7,000 00

BILL DRAFTING COMMISSION

PERSONAL SERVICE

Commissioner, 2 at \$6,500.....	13,000 00
Deputy.....	4,500 00
Associate counsel, 2 at \$3,000.....	6,000 00
General clerk, 3 at \$1,600.....	4,800 00
Comparer, 2 at \$1,600.....	3,200 00

LEGISLATIVE

BILL DRAFTING COMMISSION — *Continued*

Examiner, 3 at \$1,800.....	5,400 00
Stenographer	1,320 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer	1,100 00
Stenographer	990 00
Temporary service	50 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation, other than personal service	900 00
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LEGISLATIVE LIBRARY

PERSONAL SERVICE

Librarian	3,600 00
Assistant librarian, 3 at \$2,300.....	6,900 00
Messenger	1,500 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation, other than personal service	5,000 00
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JUDICIAL

COURT OF APPEALS

PERSONAL SERVICE

Judges of the court of appeals, including expenses.....	96,400 00
Retired judge, 3 at \$6,000.....	18,000 00
Clerks to judges.....	21,000 00
Clerk to retired judges, 3 at \$1,500.....	4,500 00
Consultation clerk	4,750 00
Librarian in attorney's department.....	2,500 00
Librarian, stenographer and attendant.....	2,750 00
Law clerk, stenographer and attendant.....	3,500 00
Card clerk, stenographer and attendant.....	2,750 00
Stenographer and attendant, 4 at \$2,500.....	10,000 00
Stenographer and attendant.....	2,300 00
Stenographer and attendant.....	2,200 00
Attendant and case clerk.....	2,500 00
Crier	2,600 00
Attendant	2,000 00
Attendant, 2 at \$1,800.....	3,600 00
Messenger	1,800 00
Attendant	1,200 00
Care and cleaning Port Henry office.....	1,000 00
Clerk of the court.....	6,000 00
Deputy clerk	4,750 00
Remittitur clerk	3,400 00
Certificate clerk	3,000 00
Chancery clerk	2,750 00
Stenographer	1,800 00
Telephone operator, 2 at \$1,260.....	2,520 00
Messenger	1,080 00
Temporary services	200 00

MAINTENANCE AND OPERATION

Libraries	
Judges' chambers	2,000 00
Law library, Albany.....	10,000 00
Law library, Syracuse.....	5,000 00
Clerks and attendants, expenses.....	500 00

JUDICIAL

COURT OF APPEALS — *Continued*

Clerk of court	
Maintenance and operation expenses other than personal service	7,500 00
Referees, expenses at \$2,000 each per annum in lieu of all expenses	6,000 00

STATE REPORTER

PERSONAL SERVICE

State reporter	5,000 00
Deputy state reporter	4,000 00
Second deputy state reporter	2,700 00
Managing clerk	2,500 00
Stenographer or clerk	1,320 00
Page	540 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation, other than personal service	450 00
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SUPREME COURT

PERSONAL SERVICE

Salaries of justices	
First district, 32 at \$10,000	320,000 00
Second district, 20 at \$10,000	200,000 00
Third district, 7 at \$10,000	70,000 00
Fourth district, 6 at \$10,000	60,000 00
Fifth district, 8 at \$10,000	80,000 00
Sixth district, 6 at \$10,000	60,000 00
Seventh district, 7 at \$10,000	70,000 00
Eighth district, 14 at \$10,000	140,000 00
Ninth district, 7 at \$10,000	70,000 00

MAINTENANCE AND OPERATION

Law Libraries

Second District	
Brooklyn	600 00
Long Island City	2,600 00
Riverhead	600 00
Third District	
Hudson	600 00
Kingston	600 00
Troy	1,350 00
Monticello	500 00
Fourth District	
Saratoga Springs	1,200 00
Fifth District	
Utica	1,600 00
Watertown	2,500 00
Sixth District	
Binghamton	2,000 00
Delhi	600 00
Elmira	600 00
Norwich	600 00
Eighth District	
Buffalo	5,000 00
Ninth District	
Newburgh	600 00
Poughkeepsie	600 00
White Plains	1,600 00

**JUDICIAL
APPELLATE DIVISION
PERSONAL SERVICE**

First Department	
Clerk	7,000 00
Second Department	
Clerk	7,000 00
Deputy sheriff	939 00
Third Department	
Justice	2,500 00
Justice, 4 at \$2,000	8,000 00
Clerk	4,500 00
Attendant, 2 at \$2,000	4,000 00
Stenographer to justice, 5 at \$2,500	12,500 00
Fourth Department	
Justice	2,500 00
Justice, 4 at \$2,000	8,000 00
Clerk	4,000 00
Attendant, 3 at \$2,000	6,000 00
Stenographer to justice, 5 at \$2,500	12,500 00

MAINTENANCE AND OPERATION

For maintenance and operation	
Court expenses other than personal service	20,000 00
Law libraries	
First Department	
New York	2,600 00
Second Department	
Brooklyn	2,000 00
Third Department	
Albany	2,000 00
Fourth Department	
Rochester	3,800 00

**SUPREME COURT REPORTER
PERSONAL SERVICE**

Supreme court reporter	5,000 00
First deputy reporter	3,000 00
Second deputy reporter	2,400 00
Assistant deputy reporter	2,400 00
Chief clerk	2,400 00
Clerk	1,800 00
Clerk	1,250 00
Clerk	720 00
Stenographer	1,250 00
Cleaning woman	240 00
Temporary services	250 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation other than personal service	900 00
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**MISCELLANEOUS REPORTER
PERSONAL SERVICE**

Miscellaneous reporter, section 454, judiciary law	4,500 00
Miscellaneous reporter as editor of state reports, section 456, judiciary law	1,500 00
Assistant	2,500 00
Associate editor, state department reports	1,600 00
Clerk	1,900 00
Clerk or stenographer	1,300 00
Stenographer and proofreader	1,600 00

JUDICIAL

MISCELLANEOUS REPORTER — *Continued*

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation other than personal service	625 00
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COURT OF CLAIMS

PERSONAL SERVICE

Presiding judge	8,000 00
Judge, 4 at \$8,000.....	32,000 00
Clerk	4,750 00
Stenographer to judges and relief court stenographer.....	3,600 00
Deputy clerk, also acting as court stenographer, 5 at \$3,600....	18,000 00
Clerk and stenographer.....	1,700 00
Recording clerk	1,440 00
Stenographer	1,440 00
Stenographer, 2 at \$1,200.....	2,400 00
Junior clerk	600 00
Temporary services	1,200 00

MAINTENANCE AND OPERATION

Printing and advertising.....	1,800 00
Equipment, supplies and materials.....	2,500 00
Traveling expenses	8,000 00
Communication	2,225 00
Contingencies	250 00

COMMISSIONERS ON UNIFORM STATE LAWS

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	500 00
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REGULATIVE

DEPARTMENT OF HEALTH, EXCLUSIVE OF LABORATORIES

PERSONAL SERVICE

Commissioner	8,000 00
Deputy commissioner	6,000 00
Secretary, executive clerk, directors of divisions, assistants to deputy commissioner and directors, not to exceed 12, and not to exceed \$5,000 each.....	43,650 00
Members of public health council, six at \$1,000 each.....	6,000 00
Assistant secretary, supervisor of exhibits, audit clerk, book-keeper, supply clerk, curator of exhibits, multigraph operator, and chauffeur, not to exceed 8 and not to exceed \$3,200 each..	15,090 00
Epidemiologist, diagnostician, lecturer, orthopedic surgeon, supervisor of child hygiene centers, consultant in charge of venereal disease clinics, supervisor of tuberculosis hospitals and clinics, field agent, and radiographer, not to exceed 12, and not to exceed \$4,000 each.....	35,600 00
Sanitary supervisors, supervising nurses, muscle testers, supervising inspector, and assistant sanitarian, not to exceed 47, and not to exceed \$3,750 each.....	103,070 00
Supervisor of records or chief statistical clerk, statistician, supervisor of machine tabulation, machine tabulators, and punching machine operators, not to exceed 9, and not to exceed \$2,500 each	13,280 00
Editorial and printing clerk, proofreader or clerk, assistant librarian or clerk, chief file clerk, search and record clerk, and filing clerks, not to exceed 8, and not to exceed \$1,800 each..	9,280 00

REGULATIVE

DEPARTMENT OF HEALTH, EXCLUSIVE OF LABORATORIES — *Continued*

Stenographers, clerks and typewriter copyists, not to exceed 63 and not to exceed \$1,600 each.....	62,680 00
Telephone operator, relief operator or clerk, messenger or pages, and laborer, not to exceed 5, and not to exceed \$1,200 each...	4,080 00
Temporary services—general	2,000 00
(Of the items hereabove appropriated \$18,090 is for the division of child hygiene.)	

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, of which not to exceed \$3,500 shall be expended for printing annual report; \$5,000 for purchase of new Healthmobile and the purchase or exchange of automobile or automobiles, and \$2,000 for traveling outside of the state.....	149,500 00
Contingency, which may be expended for personal service and maintenance and operation	14,000 00
(Of the items hereabove appropriated \$12,000 is for the division of child hygiene.)	

DEPARTMENT OF HEALTH—DIVISION OF LABORATORIES AND RESEARCH

PERSONAL SERVICE

Director	7,000 00
Assistant director	4,500 00
Librarian, assistant librarian, executive clerk, purchasing and auditing clerk, chief filing clerk, secretary or stenographer not to exceed 11 at not to exceed \$2,500 each.....	20,150 00
Secretary, stenographer, clerk, filing clerk, bookkeeper, storekeeper or superintendent of lunch room not to exceed 10 at not to exceed \$1,650 each.....	11,700 00
Stenographer, clerk, typewriter copyist, messenger or telephone operator, not to exceed 22 at not to exceed \$1,320 each.....	20,280 00
Bacteriologist, pathologist, serologist or chemist, not to exceed 8 at not to exceed \$4,500 each.....	26,400 00
Assistant bacteriologist, pathologist, serologist, chemist or veterinarian-bacteriologist, not to exceed 23 at not to exceed \$3,000 each	46,200 00
Laboratory assistant or technical assistant, not to exceed 32, at not to exceed \$1,800 each.....	39,720 00
Technical assistant or cleaner, not to exceed 16 at not to exceed \$1,800 each	17,580 00
Laboratory apprentice or helper, not to exceed 4 at not to exceed \$1,200 each	3,360 00
Laboratory helper or cleaner, not to exceed 23 at not to exceed \$1,200 each	20,400 00
Engineer, mechanic, carpenter, janitor, chauffeur, fireman or elevatorman, not to exceed 12 at not to exceed \$2,500 each....	16,350 00
Assistant veterinarian, stableman or assistant stableman, not to exceed 6 at not to exceed \$2,000 each.....	7,480 00
Laborer, cleaner or laundress, not to exceed 30 at not to exceed \$1,500 each	28,880 00
Temporary services, professional and technical.....	4,000 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation of which not more than \$1,000 may be expended for traveling outside of state and \$1,000 for the purchase or exchange of automobile or automobiles	115,000 00
Rent	7,000 00

REGULATIVE

DEPARTMENT OF HEALTH — DIVISION OF LABORATORIES AND RESEARCH —
Continued

Contingency which may be expended for personal service and maintenance and operation. Any part of the appropriation hereby made, in the discretion of the director of the laboratory in cooperation with the division of child hygiene may be used for the prevention of ophthalmia neonatorum and for the diagnosis, treatment and prevention of infectious disease in the care of maternity and infancy..... 15,000 00

LABOR DEPARTMENT

PERSONAL SERVICE

General administration	
Industrial commissioner	8,000 00
Deputy commissioner	7,000 00
Secretary to commissioner	2,500 00
Stenographer	1,020 00
Junior clerk	720 00
Attendant	1,400 00
Clerk and stenographer	1,800 00
Administration — Rochester	
Assistant to commissioner	3,000 00
Telephone operator	720 00
Laborer	1,000 00
Administration — Syracuse	
Assistant to commissioner	3,000 00
Telephone operator	900 00
Laborer	1,000 00
Administration — Buffalo	
Assistant to commissioner	3,000 00
Telephone operator	720 00
Laborer	1,000 00
The industrial board	
Member of industrial board, 3 at \$8,000	24,000 00
Stenographic secretary, 3 at \$1,600	4,800 00
Examiner of claims, 3 at \$2,000	6,000 00
Junior clerk, 2 at \$720	1,440 00
Office of secretary	
Secretary	4,500 00
Assistant to secretary	2,100 00
Assistant secretary	3,500 00
Chief hearing stenographer	2,400 00
Hearing stenographer, 3 at \$2,100	6,300 00
Hearing stenographer	1,950 00
Hearing stenographer, 7 at \$1,800	12,600 00
Hearing stenographer	1,650 00
Stenographer	1,600 00
Senior stenographer, 2 at \$1,500	3,000 00
Stenographer	1,440 00
Stenographer	1,320 00
Stenographer	960 00
Chief mail clerk	1,500 00
Telephone operator, 2 at \$1,200	2,400 00
Telephone operator	900 00
Multigraph operator	1,200 00
Multigraph operator	1,100 00
Laborer, 2 at \$1,200	2,400 00
Laborer	1,000 00
Stock clerk	1,200 00
Clerk	1,200 00
Junior clerk, 3 at \$720	2,160 00

REGULATIVE

LABOR DEPARTMENT — *Continued*

Office of the secretary — Albany	
Assistant secretary and auditor	3,500 00
Senior stenographer	1,500 00
Stenographer	1,500 00
Supervisor of printing	2,000 00
Multigraph operator	1,200 00
Clerk	1,140 00
Telephone operator	1,050 00
Division of accounts	
Accountant	2,400 00
Accountant	1,800 00
Junior accountant, 3 at \$1,500	4,500 00
Clerk	1,320 00
File clerk	1,320 00
Stenographer or clerk	1,200 00
Stenographer	1,200 00
Stenographer	900 00
Division of cashier	
Cashier	3,750 00
Assistant cashier	2,250 00
Bookkeeper	1,200 00
File clerk	1,200 00
Stenographer	1,080 00
Bureau of statistics and information	
Chief statistician	4,500 00
Statistician	2,000 00
Statistician, 2 at \$1,800	3,600 00
Expert, 3 at \$2,800	8,400 00
Expert	2,200 00
Librarian	1,700 00
Special agent	2,000 00
Clerk	2,000 00
Clerk or hearing stenographer	1,650 00
Statistical clerk	1,600 00
Statistical clerk	1,500 00
Statistical clerk	1,200 00
Bookkeeper or clerk	1,500 00
Junior statistical clerk, 2 at \$1,080	2,160 00
Junior statistical clerk	960 00
Junior statistical clerk, 2 at \$840	1,680 00
Stenographer	1,600 00
Stenographer	1,140 00
Stenographer	1,080 00
Comptometer operator	1,000 00
Comptometer operator	900 00
New York office	
Assistant chief statistician	3,500 00
Statistician	2,000 00
Statistician	1,800 00
Special agent	2,250 00
Stenographer	1,200 00
Buffalo office	
Statistician	1,800 00
Rochester office	
Statistician	1,800 00
Syracuse office	
Statistician	1,800 00
Bulletins and publications	
Editor of official bulletin	3,000 00

REGULATIVE

LABOR DEPARTMENT — *Continued*

Building, care and cleaning	
Supervisor	3,000 00
Engineer	2,840 00
Fireman, 3 at \$1,716.....	5,148 00
Fireman	1,600 00
Elevatorman, 4 at \$1,200.....	4,800 00
Laborer, 2 at \$1,200.....	2,400 00
Laborer	1,080 00
Watchman	1,080 00
Cleaner, 10 at \$600.....	6,000 00
Bureau of inspection	
Director, bureau of inspection.....	6,000 00
Stenographer	1,600 00
Stenographer	1,080 00
Division of factory inspection — New York office	
Chief factory inspector.....	4,000 00
Assistant chief factory inspector.....	3,500 00
Supervising factory inspector, 3 at \$3,000.....	9,000 00
Factory inspector, 11 at \$2,400.....	26,400 00
Factory inspector, 14 at \$2,100.....	29,400 00
Factory inspector, 11 at \$1,800.....	19,800 00
Factory inspector, 5 at \$1,500.....	7,500 00
Mercantile inspector	2,100 00
Mercantile inspector, 5 at \$1,800.....	9,000 00
Tunnel inspector	2,000 00
Mine and tunnel inspector.....	2,000 00
Clerk	1,500 00
Clerk	1,200 00
Clerk	900 00
File clerk	1,200 00
File clerk	1,100 00
Stenographer	1,440 00
Stenographer	1,200 00
Stenographer, 5 at \$900.....	4,500 00
Stenographer or type copyist, 2 at \$1,100.....	2,200 00
Stenographer or type copyist.....	900 00
Division of factory inspection — Albany	
Supervising factory inspector.....	3,000 00
Factory inspector, 3 at \$2,400.....	7,200 00
Factory inspector, 3 at \$2,100.....	6,300 00
Factory inspector, 2 at \$1,800.....	3,600 00
Mine inspector	2,000 00
Clerk	2,200 00
Clerk and hearing stenographer.....	1,900 00
Stenographer, 5 at \$1,440.....	7,200 00
Stenographer	1,320 00
Stenographer	1,140 00
Stenographer	900 00
Division of factory inspection — Buffalo	
Supervising factory inspector.....	3,000 00
Factory inspector	2,400 00
Factory inspector, 3 at \$2,100.....	6,300 00
Factory inspector, 2 at \$1,800.....	3,600 00
Factory inspector, 2 at \$1,500.....	3,000 00
Stenographer	1,440 00
Division of factory inspection — Rochester	
Supervising factory inspector.....	3,000 00
Factory inspector, 3 at \$2,400.....	7,200 00
Factory inspector, 3 at \$2,100.....	6,300 00
Factory inspector, 2 at \$1,800.....	3,600 00
Stenographer	1,200 00

REGULATIVE

LABOR DEPARTMENT—*Continued*

Division of mercantile inspection	
Chief of division	4,000 00
Mercantile inspector, 2 at \$2,400	4,800 00
Mercantile inspector, 7 at \$2,100	14,700 00
Mercantile inspector, 9 at \$1,800	16,200 00
Mercantile inspector, 3 at \$1,500	4,500 00
Clerk	1,650 00
Clerk	1,440 00
File clerk	900 00
Stenographer	1,080 00
Stenographer or type copyist	1,080 00
Stenographer or type copyist	900 00
Division of homework inspection	
Chief of division	3,250 00
Factory inspector	2,400 00
Factory inspector, 3 at \$2,100	6,300 00
Factory inspector, 5 at \$1,800	9,000 00
Factory inspector, 2 at \$1,500	3,000 00
Clerk	1,200 00
Stenographer	1,140 00
Division of industrial hygiene	
Chief of division	3,750 00
Medical inspector of factories, 2 at \$3,000	6,000 00
Medical inspector	2,100 00
Factory inspector, 2 at \$2,400	4,800 00
Factory inspector	2,100 00
Factory inspector	1,800 00
Stenographer	1,440 00
Division of engineering—Albany	
Assistant engineer	2,750 00
Stenographer	1,500 00
Division of boiler inspection	
Chief boiler inspector	3,000 00
Boiler inspector, 3 at \$1,800	5,400 00
Boiler inspector, 3 at \$1,650	4,950 00
Boiler inspector, 3 at \$1,500	4,500 00
Chief clerk and hearing stenographer	1,900 00
Clerk	1,320 00
Clerk	1,080 00
Stenographer	1,140 00
Bureau of research and codes—division of women in industry	
Chief of division	3,000 00
Investigator	1,800 00
Stenographer	1,600 00
Division of industrial code	
Industrial code referee, 2 at \$4,000	8,000 00
Stenographer	1,500 00
Bureau of industrial relations	
Director of industrial relations	5,000 00
Confidential agent	2,400 00
Stenographer	1,440 00
Division of employment	
Chief of division	4,250 00
Assistant to chief of division	2,000 00
Division of employment—Albany	
Superintendent	2,400 00
Assistant superintendent, 2 at \$1,500	3,000 00
Assistant superintendent	1,440 00
Assistant superintendent	1,140 00
Supervisor	1,700 00
Assistant supervisor	1,320 00
Stenographer	1,080 00

REGULATIVE

LABOR DEPARTMENT—*Continued*

Division of employment—Brooklyn	
Superintendent	2,400 00
Assistant superintendent	1,600 00
Assistant superintendent, 3 at \$1,500.....	4,500 00
Assistant superintendent	1,350 00
Assistant superintendent	1,320 00
Supervisor	1,800 00
Assistant supervisor, 2 at \$1,200.....	2,400 00
Assistant supervisor	1,080 00
Stenographer, 2 at \$900.....	1,800 00
Telephone operator	720 00
Division of employment—Buffalo	
Superintendent	2,250 00
Assistant superintendent, 3 at \$1,500.....	4,500 00
Assistant superintendent	1,440 00
Supervisor	1,700 00
Assistant supervisor	1,200 00
Stenographer	1,140 00
Division of employment—Dunkirk	
Assistant superintendent	1,320 00
Division of employment—Manhattan	
Superintendent	2,400 00
Superintendent	2,300 00
Assistant superintendent, 3 at \$1,500.....	4,500 00
Assistant superintendent	1,440 00
Assistant superintendent	1,320 00
Supervisor	1,700 00
Assistant supervisor	1,440 00
Assistant supervisor	1,350 00
Assistant supervisor	1,200 00
Clerk	1,200 00
Stenographer	1,140 00
Stenographer	1,020 00
Telephone operator	720 00
Division of employment—Rochester	
Superintendent	2,300 00
Assistant superintendent	1,600 00
Assistant superintendent	1,500 00
Assistant superintendent, 2 at \$1,440.....	2,880 00
Assistant superintendent	1,320 00
Assistant superintendent	1,200 00
Assistant superintendent	1,140 00
Assistant supervisor, 2 at \$1,080.....	2,160 00
Stenographer	900 00
Division of employment—Syracuse	
Superintendent	1,800 00
Assistant superintendent	1,500 00
Assistant superintendent, 2 at \$1,440.....	2,880 00
Assistant superintendent, 2 at \$1,200.....	2,400 00
Supervisor	1,700 00
Assistant supervisor	1,080 00
Stenographer	900 00
Division of aliens	
Chief of division.....	3,500 00
Investigator, 2 at \$1,500.....	3,000 00
Investigator	1,200 00
Stenographer	1,320 00
Stenographer	1,140 00

REGULATIVE

LABOR DEPARTMENT — *Continued*

Division of mediation and arbitration — New York	
Chief mediator	3,500 00
Special agent	2,250 00
Stenographer or type copyist.....	960 00
Division of mediation and arbitration — Albany	
Mediator of industrial disputes, 2 at \$3,000.....	6,000 00
Bureau of workmen's compensation	
Director of bureau.....	5,000 00
Referee	5,000 00
Referee, 8 at \$4,000.....	32,000 00
Referee, 2 at \$3,000.....	6,000 00
Chief medical examiner.....	6,000 00
Medical examiner, 3 at \$2,500.....	7,500 00
Assistant chief of claims.....	2,400 00
Examiner of claims 7 at \$2,000.....	14,000 00
Examiner of claims, 6 at \$1,800.....	10,800 00
Assistant examiner of claims, 5 at \$1,500.....	7,500 00
Assistant examiner of claims, 9 at \$1,320.....	11,880 00
Assistant examiner of claims, 12 at \$1,200.....	14,400 00
Investigator, 2 at \$1,500.....	3,000 00
Interpreter, 5 at \$1,440.....	7,200 00
Interpreter, 2 at \$1,320.....	2,640 00
Investigator of after-care service.....	1,800 00
Chief filing clerk	2,000 00
File clerk	1,100 00
Clerk or bookkeeper.....	1,080 00
Clerk or bookkeeper.....	1,020 00
Clerk or bookkeeper.....	720 00
Clerk or type copyist, 3 at \$900.....	2,700 00
Junior clerk, 7 at \$720.....	5,040 00
Stenographer	1,500 00
Stenographer	1,440 00
Stenographer	1,320 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer, 9 at \$1,140.....	10,260 00
Stenographer, 4 at \$1,080.....	4,320 00
Stenographer	960 00
Stenographer, 12 at \$900.....	10,800 00
Stenographer or type copyist.....	1,080 00
Stenographer or type copyist.....	1,000 00
Stenographer or type copyist, 3 at \$960.....	2,880 00
Bureau of workmen's compensation — Albany	
Examiner of claims.....	2,000 00
Examiner of claims, 2 at \$1,800.....	3,600 00
Assistant examiner of claims.....	1,200 00
Hearing stenographer	2,100 00
Hearing stenographer, 2 at \$1,800.....	3,600 00
Hearing stenographer	1,500 00
Stenographer	1,440 00
Stenographer, 3 at \$1,200.....	3,600 00
Stenographer	1,080 00
Clerk	1,440 00
Clerk	1,200 00
Clerk or stenographer.....	1,000 00
Clerk	900 00
Clerk	720 00
Bureau of workmen's compensation — Brooklyn	
Examiner of claims.....	2,000 00
Interpreter	1,440 00
Stenographer	1,140 00

REGULATIVE

LABOR DEPARTMENT — *Continued*

Bureau of workmen's compensation — Buffalo	
Examiner of claims.....	1,800 00
Assistant examiner of claims.....	1,200 00
Investigator.....	1,200 00
Hearing stenographer.....	1,800 00
Hearing stenographer, or assistant examiner of claims, 2 at \$1,500.....	3,000 00
Hearing stenographer, or assistant examiner of claims.....	1,320 00
Stenographer, 5 at \$960.....	4,800 00
Stenographer.....	900 00
Clerk.....	1,320 00
Clerk.....	1,200 00
Clerk or junior clerk.....	720 00
Bureau of workmen's compensation — Rochester	
Examiner of claims.....	2,000 00
Examiner of claims.....	1,800 00
Assistant examiner of claims.....	1,600 00
Assistant examiner of claims.....	1,200 00
Investigator or clerk.....	1,200 00
Clerk.....	960 00
Clerk or junior clerk.....	720 00
Hearing stenographer.....	1,950 00
Hearing stenographer.....	1,800 00
Hearing stenographer.....	1,500 00
Stenographer.....	960 00
Stenographer.....	900 00
Stenographer or clerk.....	900 00
Bureau of workmen's compensation — Syracuse	
Examiner of claims.....	2,000 00
Examiner of claims, 2 at \$1,800.....	3,600 00
Assistant examiner of claims.....	1,500 00
Hearing stenographer.....	1,600 00
Hearing stenographer.....	1,500 00
Stenographer.....	1,200 00
Stenographer.....	960 00
Stenographer or type copyist.....	1,000 00
Bookkeeper or clerk.....	1,320 00
Stenographer or clerk.....	1,200 00
Stenographer or clerk.....	1,000 00
Junior clerk.....	720 00
Special services.....	3,000 00
Salaries — temporary.....	4,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	10,800 00
Printing and advertising, including reports and bulletins.....	35,700 00
Equipment, supplies and materials.....	30,225 00
Traveling expenses	
Officials and employees.....	84,000 00
Members of voluntary committee on preparation of codes and rules.....	1,000 00
Communication.....	36,650 00
Fixed charges and contributions	
Surety bonds.....	1,210 00
Expenses of state industrial congress.....	1,000 00
Sheriff and subpoena fees, et cetera.....	300 00
Retired veterans.....	2,250 00
Special stenographic reports.....	250 00
Rent.....	32,447 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment.....	10,000 00
Contingencies.....	2,550 00

**REGULATIVE
TRANSIT COMMISSION**

PERSONAL SERVICE

Commissioner, 3 at \$15,000.....	45,000 00
Counsel	10,000 00
Secretary	6,000 00

PUBLIC SERVICE COMMISSION

PERSONAL SERVICE

Executive

Commissioner, 5 at \$15,000.....	75,000 00
Executive officer	10,000 00
Secretary	6,000 00
Assistant secretary	4,500 00
Assistant secretary	3,500 00

Legal

Counsel	10,000 00
Assistant counsel	5,500 00
Assistant counsel, 3 at \$4,000.....	12,000 00
Junior assistant counsel.....	4,000 00
Junior assistant counsel.....	3,800 00
Junior assistant counsel.....	3,000 00
Clerk (law)	2,400 00
Clerk (law)	2,100 00

Administrative

Confidential secretary to chairman.....	2,000 00
Secretary to commissioner, 4 at \$1,800.....	7,200 00
Executive clerk	5,000 00
Chief tariff clerk.....	4,500 00
Financial clerk	1,800 00
Chief clerk	2,100 00
Clerk	2,650 00
Clerk	2,000 00
Clerk	1,900 00
Clerk	1,750 00
Senior clerk	1,650 00
Clerk	1,650 00
File clerk, 3 at \$1,650.....	4,950 00
Clerk	1,600 00
File clerk, 2 at \$1,400.....	2,800 00
Clerk	1,380 00
Clerk, 2 at \$1,320.....	2,640 00
Clerk	900 00
Junior clerk, 4 at \$840.....	3,360 00
Clerk, 2 at \$720.....	1,440 00
Junior clerk	720 00
Chief stenographer	1,900 00
Stenographer, 3 at \$1,800.....	5,400 00
Stenographer	1,620 00
Stenographer	1,600 00
Stenographer, 3 at \$1,500.....	4,500 00
Stenographer, 2 at \$1,320.....	2,640 00
Stenographer, 6 at \$1,200.....	7,200 00
Stenographer, 2 at \$1,140.....	2,280 00
Bookkeeper	1,440 00
Bookkeeper	1,320 00
Proofreader or clerk.....	1,500 00
Messenger	1,440 00
Messenger	720 00
Telephone operator	1,200 00
Telephone operator	1,080 00
Telephone operator	1,020 00

REGULATIVE
PUBLIC SERVICE COMMISSION—Continued

Chauffeur	1,650 00
Chauffeur	1,380 00
Laborer	1,020 00
Attendant	780 00
Page, 2 at \$540.	1,080 00
Chief, engineering division.	8,000 00
Deputy chief, engineering division.	5,000 00
Assistant engineer (electric)	5,000 00
Assistant engineer (gas)	5,000 00
Assistant engineer (railroad)	5,000 00
Assistant engineer (telephone)	4,500 00
Assistant engineer (railroad)	4,500 00
Assistant engineer (railroad)	3,500 00
Assistant engineer (railroad), 2 at \$3,200.	6,400 00
Assistant engineer (electric)	4,000 00
Assistant engineer (electric)	3,800 00
Assistant engineer (electric)	3,000 00
Assistant engineer (gas)	3,000 00
Assistant engineer (railroad)	2,900 00
Assistant engineer (electric), 2 at \$2,101.	4,202 00
Assistant engineer (railroad)	2,650 00
Assistant engineer (electric)	2,500 00
Assistant engineer (electric)	2,400 00
Assistant engineer (electric), 3 at \$2,100.	6,300 00
Assistant engineer (mechanical), 2 at \$2,100.	4,200 00
Junior assistant engineer (electric), 2 at \$1,800.	3,600 00
Inspector maintenance, operation and equipment (electric) . .	3,300 00
Inspector maintenance, operation and equipment (telephone) .	3,250 00
Inspector maintenance, operation and equipment (telephone) .	2,800 00
Inspector maintenance, operation and equipment (telephone) .	2,500 00
Inspector maintenance, operation and equipment (railroad), 2 at \$2,700	5,400 00
Inspector maintenance, operation and equipment (railroad) . .	2,650 00
Inspector maintenance, operation and equipment (railroad) . .	2,600 00
Inspector maintenance, operation and equipment (railroad), 2 at \$2,400	4,800 00
Inspector maintenance, operation and equipment (railroad) . .	2,250 00
Inspector maintenance, operation and equipment (railroad) . .	2,000 00
Inspector maintenance, operation and equipment (electric), 2 at \$1,950	3,900 00
Inspector maintenance, operation and equipment (gas)	1,920 00
Inspector maintenance, operation and equipment (telephone) .	1,900 00
Inspector maintenance, operation and equipment (electric) . . .	1,800 00
Inspector maintenance, operation and equipment (electric) . . .	1,650 00
Inspector maintenance, operation and equipment (gas)	1,650 00
Inspector maintenance, operation and equipment (electric) . . .	1,600 00
Inspector maintenance, operation and equipment (electric) . . .	1,501 00
Inspector maintenance, operation and equipment (gas), 2 at \$1,560	3,120 00
Inspector maintenance, operation and equipment (gas), 5 at \$1,501	7,505 00
Inspector maintenance, operation and equipment (electric), 2 at \$1,500	3,000 00
Inspector maintenance, operation and equipment (gas), 6 at \$1,500	9,000 00
Inspector maintenance, operation and equipment (gas)	1,350 00
Inspector maintenance, operation and equipment (telephone), 3 at \$1,500	4,500 00
Inspector maintenance, operation and equipment (gas), 2 at \$1,380	2,760 00

REGULATIVE

PUBLIC SERVICE COMMISSION — *Continued*

Chemist	2,400 00
Gas meter tester, 5 at \$1,400	7,000 00
Gas meter tester, 18 at \$1,350	24,300 00
Assistant to chief engineer	1,320 00
Clerk, 2 at \$1,320	2,640 00
Engineering clerk	1,200 00
Stenographer	1,500 00
Stenographer	1,320 00
Stenographer	1,000 00
Accounting	
Chief, accounting division	7,500 00
Deputy chief, accounting division	5,000 00
Accountant, 2 at \$3,000	6,000 00
Accountant	3,300 00
Accountant	2,800 00
Accountant, 3 at \$2,700	8,100 00
Accountant, 4 at \$2,500	10,000 00
Accountant	2,300 00
Accountant	2,250 00
Accountant, 2 at \$2,040	4,080 00
Accountant, 6 at \$2,000	12,000 00
Accountant	1,800 00
Junior accountant	1,650 00
Junior accountant	1,501 00
Junior accountant, 3 at \$1,440	4,320 00
Junior accountant	1,201 00
Statistician	3,000 00
Statistician	2,550 00
Statistician	2,400 00
Statistician	1,800 00
Junior statistician, 2 at \$1,350	2,700 00
Clerk	2,350 00
Clerk	1,380 00
Clerk or typist	1,200 00
Clerk or typist	1,080 00
Clerk	901 00
Clerk, 3 at \$840	2,520 00
Stenographer, 3 at \$1,320	3,960 00
Temporary services	1,500 00

MAINTENANCE AND OPERATION

For the expenses of maintenance and operation..... 149,459 00

On or before June fifteenth, nineteen hundred and twenty-two, the public service commission shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee, a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund, such segregation shall have their approval and no changes shall be made in this tentative segregation during the fiscal year commencing July first, nineteen hundred and twenty-two, without their approval.

STATE TAX DEPARTMENT

For the expenses of maintenance and operation of the state tax department, of which not more than \$1,890,000.00 may be available for personal service..... 2,490,000 00

On or before June fifteenth, nineteen hundred and twenty-two, the state tax department shall file with the governor, the chairman of the senate finance committee and the chairman of

REGULATIVE

STATE TAX DEPARTMENT—*Continued*

the assembly ways and means committee a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund, such segregation shall have their approval and no change shall be made in this tentative segregation during the fiscal year commencing July first, nineteen hundred and twenty-two, without their approval.

STATE RACING COMMISSION

For the expenses of the state racing commission to be paid out of the moneys hereafter collected by the state comptroller.... 2,500 00

STATE INSTITUTE FOR THE STUDY OF MALIGNANT DISEASE,
BUFFALO

PERSONAL SERVICE

Director	7,500 00
Secretary	2,000 00
Assistant secretary	1,200 00
Stenographer	1,200 00
Pathologist	5,000 00
Physicist	4,000 00
Chemist	3,000 00
Biologist	3,000 00
Surgeon	3,000 00
Internist	3,000 00
Assistant in pathology.....	2,500 00
Radio-photographer	1,800 00
Assistant radio-physics	1,800 00
Recorder	1,800 00
Technical assistant not to exceed 15, at not to exceed \$1,800 each	18,980 00
Clinical assistant	1,200 00
Clinical assistant, 2 at \$600	1,200 00
Superintendent nurse	1,600 00
Nurse, not to exceed 8, at not to exceed \$1,140 each.....	8,040 00
Instrument maker	2,000 00
Mechanic	1,500 00
Mechanic	1,200 00
Glassblower	600 00
Cook	840 00
Temporary services	11,644 00

MAINTENANCE AND OPERATION

For general expenses of maintenance and operation of which not less than \$3,000 shall be expended for repairs and alterations to buildings; repairs and replacement of mechanical equipment and not more than \$600 may be expended for traveling outside of state..... 37,520 00

BOARD OF EMBALMING EXAMINERS

PERSONAL SERVICE

Member, 5 at \$200.....	1,000 00
Secretary	1,000 00
Stenographer	960 00
Temporary or technical services.....	250 00

REGULATIVE

BOARD OF EMBALMING EXAMINERS — *Continued*

MAINTENANCE AND OPERATION

For expenses of maintenance and operation other than personal service, of which not more than \$50 may be expended for traveling outside the state..... 1,500 00

STATE ATHLETIC COMMISSION

PERSONAL SERVICE

Deputy commissioner, 4 at \$4,000..... 16,000 00
 Secretary to commission..... 3,000 00
 Assistant secretary to commission..... 1,560 00
 Secretary, license committee..... 1,500 00
 Assistant secretary, license committee..... 1,200 00
 Cashier..... 2,500 00
 Stenographer..... 1,500 00
 Stenographer, 2 at \$1,200..... 2,400 00
 Checker, not to exceed 10, at not to exceed \$5 per diem..... 6,250 00
 Laborer..... 1,500 00

MAINTENANCE AND OPERATION

Printing and advertising..... 7,000 00
 Equipment, supplies and materials..... 3,700 00
 Traveling expenses..... 6,000 00
 Communication..... 2,200 00
 Rent..... 4,500 00
 Contingencies..... 500 00

MOTION PICTURE COMMISSION

PERSONAL SERVICE

Commissioner, 3 at \$7,500..... 22,500 00
 Deputy commissioner, 2 at \$4,000..... 8,000 00
 Deputy commissioner..... 3,000 00
 Financial deputy..... 3,500 00
 Secretary to commissioner, 2 at \$2,500..... 5,000 00
 Secretary to commissioner..... 1,200 00
 Assistant secretary..... 2,400 00
 Stenographer..... 1,500 00
 Stenographer..... 1,440 00
 Stenographer..... 1,200 00
 Reviewers not to exceed \$2,500 each..... 15,000 00
 Laborer..... 1,200 00

MAINTENANCE AND OPERATION

Fuel, light, power and water..... 100 00
 Printing and advertising..... 1,750 00
 Equipment, supplies and materials..... 12,000 00
 Traveling expenses of which not more than \$1,000 may be used for traveling outside the state..... 15,000 00
 Communication..... 1,200 00
 Fixed charges and contributions..... 25 00
 Rent..... 6,000 00
 Contingencies..... 5,000 00

DEPARTMENT OF PUBLIC WORKS

PERSONAL SERVICE

Inspector of hulls..... 3,000 00
 Inspector of boilers and engines..... 3,000 00

EDUCATIONAL

EDUCATION DEPARTMENT, INCLUDING PROFESSIONAL EXAMINATIONS BUREAU

PERSONAL SERVICE

President of the University and Commissioner of Education....	12,000 00
Secretary to the commissioner.....	2,350 00
Deputy commissioner of education and counsel.....	7,000 00
Assistant commissioner and director of professional education..	7,000 00
Assistant commissioner for secondary education or director.....	5,500 00
Assistant commissioner for elementary education or director..	5,500 00
Director, 3 at \$5,500.....	16,500 00
Director	4,750 00
Director	4,250 00
Chief	4,500 00
Chief	8,000 00
Chief, 2 at \$4,000.....	11,250 00
Chief, 3 at \$3,750.....	7,000 00
Chief or assistant, 2 at \$3,500.....	3,250 00
Chief or assistant.....	16,000 00
Assistant or chief, 4 at \$4,000.....	3,250 00
Assistant	2,850 00
Assistant	5,500 00
Assistant, 2 at \$2,750.....	2,500 00
Assistant	2,400 00
Assistant	2,250 00
Assistant	2,160 00
Assistant	2,100 00
Assistant	1,800 00
Assistant	1,500 00
Assistant	1,400 00
Editor or assistant.....	3,500 00
Compositor	1,800 00
Compositor's apprentice	1,080 00
Cashier	2,750 00
Secretary dental board	4,500 00
Secretary, medical board	4,250 00
Secretary, nurses' board.....	3,500 00
Secretary, pharmacy board	3,000 00
Specialist	5,500 00
Specialist	4,200 00
Specialist	4,000 00
Specialist	3,750 00
Specialist	3,600 00
Specialist, 6 at \$3,300.....	19,800 00
Specialist, 8 at \$3,250.....	26,000 00
Specialist, 5 at \$3,000.....	15,000 00
Specialist, 2 at \$2,750.....	5,500 00
Specialist, 2 at \$2,400.....	4,800 00
Specialist	2,200 00
Specialist, 2 at \$2,000.....	4,000 00
Inspector, 2 at \$3,000.....	6,000 00
Inspector, 3 at \$2,750.....	8,250 00
Inspector, 2 at \$2,500.....	5,000 00
Inspector	2,250 00
Inspector, 5 at \$2,000.....	10,000 00
Inspector, 2 at \$1,900.....	3,800 00
Inspector, 3 at \$1,800.....	5,400 00
Inspector	1,500 00
Examiner, not to exceed 19, at not to exceed \$2,100 each.....	28,380 00
Scientific expert, 3 at \$3,000.....	9,000 00
Scientific expert, 2 at \$2,500.....	5,000 00
Scientific expert, 2 at \$1,900.....	3,800 00

EDUCATIONAL

DEPARTMENT OF EDUCATION — *Continued.*

Scientific expert	1,600 00
Scientific expert, 2 at \$1,440.....	2,880 00
Technical assistant	2,000 00
Technical assistant	1,260 00
Technical assistant	1,200 00
Architectural designer or consulting architect.....	2,500 00
Senior librarian, 3 at \$3,000.....	9,000 00
Senior librarian	2,500 00
Senior librarian	8,400 00
Senior librarian	2,000 00
Librarian	1,900 00
Librarian, 5 at \$1,800.....	9,000 00
Librarian, 4 at \$1,680.....	6,720 00
Librarian, 6 at \$1,500.....	9,000 00
Librarian, 3 at \$1,320.....	3,960 00
Librarian, 3 at \$1,200.....	3,600 00
Librarian	1,140 00
Librarian, 2 at \$1,020.....	2,040 00
Library assistant, 2 at \$900.....	1,800 00
Library assistant, 2 at \$840.....	1,680 00
Library assistant, 3 at \$720.....	2,160 00
Library assistant or clerk, 2 at \$1,140.....	2,280 00
Library assistant or clerk, 2 at \$1,080.....	2,160 00
Library assistant or clerk, 3 at \$900.....	2,700 00
Library assistant or clerk, 2 at \$840.....	1,680 00
Library assistant or clerk.....	780 00
Library assistant or clerk, 3 at \$720.....	2,160 00
Confidential stenographer	1,800 00
Hearing stenographer	1,700 00
Stenographer, 2 at \$1,600.....	3,200 00
Stenographer, 5 at \$1,500.....	7,500 00
Stenographer 3 at \$1,400.....	4,200 00
Stenographer, 3 at \$1,320.....	3,960 00
Stenographer, 2 at \$1,260.....	2,520 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer, 5 at \$1,140.....	5,700 00
Stenographer, 5 at \$1,020.....	5,100 00
Stenographer, 9 at \$900.....	8,100 00
Stenographer, 11 at \$840.....	9,240 00
Clerk or stenographer, 2 at \$1,020.....	2,040 00
Clerk or stenographer 5 at \$900.....	4,500 00
Clerk or stenographer, 3 at \$840.....	2,520 00
Clerk or stenographer, 2 at \$720.....	1,440 00
Clerk or examiner.....	1,600 00
Assistant cashier or clerk.....	1,600 00
Assistant cashier or clerk.....	1,400 00
Clerk or engrosser.....	1,320 00
Clerk or bookkeeper.....	1,020 00
Clerk and secretary of museum.....	2,500 00
Clerk, 2 at \$2,100.....	4,200 00
Clerk	1,800 00
Clerk, 3 at \$1,600.....	4,800 00
Clerk, 3 at \$1,500.....	4,500 00
Clerk, 5 at \$1,400.....	7,000 00
Clerk, 2 at \$1,260.....	2,520 00
Clerk 8 at \$1,200.....	9,600 00
Clerk, 6 at \$1,140.....	6,840 00
Clerk, 5 at \$1,080.....	5,400 00
Clerk, 7 at \$1,020.....	7,140 00
Clerk	960 00

EDUCATIONAL

DEPARTMENT OF EDUCATION—*Continued*

Clerk, 7 at \$900.....	6,300 00
Clerk, 6 at \$840.....	5,040 00
Clerk, 24 at \$780.....	18,720 00
Clerk, 14 at \$720.....	10,080 00
Clerk, 13 at \$660.....	8,580 00
Junior clerk or page, 4 at \$660.....	2,640 00
Junior clerk or page, 3 at \$600.....	1,800 00
Messenger or clerk.....	1,380 00
Messenger or clerk.....	1,320 00
Messenger or clerk.....	1,200 00
Messenger or clerk.....	1,080 00
Telephone operator, 2 at \$1,080.....	2,160 00
Custodian of museum collections.....	1,200 00
Custodian of building or messenger.....	1,600 00
Chief engineer or supervising engineer.....	3,200 00
Electrical engineer.....	2,000 00
Storekeeper.....	1,840 00
Assistant steam engineer.....	1,500 00
Assistant steam engineer, 4 at \$1,320.....	5,280 00
Mason.....	1,500 00
Carpenter, 2 at \$1,320.....	2,640 00
Roofer.....	1,320 00
Painter.....	1,320 00
Electrician.....	1,320 00
General mechanical assistant.....	1,200 00
Elevator repairman.....	1,320 00
Elevatorman, 5 at \$1,320.....	6,600 00
Orderly or watchman, 8 at \$1,080.....	8,640 00
Shipper, 2 at \$1,200.....	2,400 00
Laborer, 8 at \$1,020.....	8,160 00
Laborer, 12 at \$960.....	11,520 00
Porter, 11 at \$900.....	9,900 00
Cleaner, 4 at \$660.....	2,640 00
Cleaner, 30 at \$540.....	16,200 00
Salaries, regular or temporary	
For temporary stenographers, clerks, laborers or other temporary or expert services throughout the department as necessity demands.....	7,000 00
For payment of honorariums to convocation speakers.....	1,000 00
Temporary examiners.....	22,000 00
Proctors, at \$5 a day.....	6,825 00
State board of medical examiners.....	8,000 00
State board of pharmacy examiners.....	5,400 00
State board of nurse examiners.....	3,000 00
State board of dental examiners.....	6,000 00
State board of veterinary examiners.....	1,000 00
State board of optometry examiners.....	750 00
State board of certified public accountant examiners.....	2,000 00
State board of certified shorthand reporters examiners.....	200 00
State board of registered architects examiners.....	2,000 00
State board of professional engineers and land surveyors examiners.....	4,000 00
Chemist, state board of pharmacy.....	3,500 00
Attorney, state board of pharmacy.....	1,500 00
For such additional compensation to members of the department staff as may be necessary to keep the museum and library open on Sunday.....	3,500 00
For scientific expert services for carrying forward field work for the state museum.....	3,000 00
Summer library school.....	500 00

EDUCATIONAL

DEPARTMENT OF EDUCATION — *Continued*

Library school lecturer, at \$20 a lecture.....	500 00
For temporary labor on Indian reservations.....	900 00
District superintendent, 208 at \$1,800.....	374,400 00
Teachers on Indian reservations as follows:	
One at \$1,200.....	1,200 00
One at \$1,000.....	1,000 00
Seventeen at \$800.....	13,600 00
For additional personal service to be paid from the apportionment to Indian schools, made pursuant to statute from the appropriation for the support of common schools, including the additional quota of \$280 each, as follows:	
One at \$1,200; three at \$1,000; five at \$900; nine at \$800.	
Extension or Americanization bureau	
Specialist	4,500 00
Assistant	4,000 00
Assistant	3,750 00
Assistant	3,500 00
Assistant, 2 at \$3,000.....	6,000 00
Assistant	2,700 00
Stenographer	1,080 00
Bureau for licensing schools and loyalty tests for teachers	
Assistant	2,500 00
Stenographer	1,200 00
Clerk	1,200 00
Bureau for licensing professional engineers and land surveyors	
Engrosser	1,800 00
Stenographer	1,200 00
Stenographer	1,020 00
Clerk	660 00
Rehabilitation bureau	
Assistant director	3,000 00
Agent.....	2,375 00
Agent.....	2,150 00
Agent, 2 at \$2,000.....	4,000 00
Assistant, 4 at \$1,500.....	6,000 00
Assistant, 6 at \$1,250.....	7,500 00
Clerk.....	600 00
Stenographer, 7 at \$600.....	4,200 00

MAINTENANCE AND OPERATION

Food.....	200 00
Fuel, light, power and water.....	5,300 00
Printing and advertising	
General and departmental reports and bulletins, including the purchase of equipment, supplies and materials, to permit the department to do its own printing, including personal service, (of the amount hereby appropriated, not more than \$20,000 may be expended for reports and bulletins).....	95,000 00
Equipment and supplies, of which at least \$50,000 shall be expended for the purchase of books and binding.....	98,750 00
Traveling expenses	
Officers and employees (not more than \$2,500 of which may be used for traveling outside the state).....	85,000 00
District superintendents	124,800 00
Communication	37,350 00
Fixed charges and contributions	
Support of common schools.....	33,965,000 00
Academic quotas.....	560,000 00
Books, apparatus and standard works of art.....	125,000 00

REGULATIVE

LABOR DEPARTMENT — *Continued*

Bureau of workmen's compensation — Buffalo	
Examiner of claims.....	1,800 00
Assistant examiner of claims.....	1,200 00
Investigator.....	1,200 00
Hearing stenographer.....	1,800 00
Hearing stenographer, or assistant examiner of claims, 2 at \$1,500.....	3,000 00
Hearing stenographer, or assistant examiner of claims.....	1,320 00
Stenographer, 5 at \$960.....	4,800 00
Stenographer.....	900 00
Clerk.....	1,320 00
Clerk.....	1,200 00
Clerk or junior clerk.....	720 00
Bureau of workmen's compensation — Rochester	
Examiner of claims.....	2,000 00
Examiner of claims.....	1,800 00
Assistant examiner of claims.....	1,600 00
Assistant examiner of claims.....	1,200 00
Investigator or clerk.....	1,200 00
Clerk.....	960 00
Clerk or junior clerk.....	720 00
Hearing stenographer.....	1,950 00
Hearing stenographer.....	1,800 00
Hearing stenographer.....	1,500 00
Stenographer.....	960 00
Stenographer.....	900 00
Stenographer or clerk.....	900 00
Bureau of workmen's compensation — Syracuse	
Examiner of claims.....	2,000 00
Examiner of claims, 2 at \$1,800.....	3,600 00
Assistant examiner of claims.....	1,500 00
Hearing stenographer.....	1,600 00
Hearing stenographer.....	1,500 00
Stenographer.....	1,200 00
Stenographer.....	960 00
Stenographer or type copyist.....	1,000 00
Bookkeeper or clerk.....	1,320 00
Stenographer or clerk.....	1,200 00
Stenographer or clerk.....	1,000 00
Junior clerk.....	720 00
Special services.....	3,000 00
Salaries — temporary.....	4,000 00
MAINTENANCE AND OPERATION	
Fuel, light, power and water.....	10,800 00
Printing and advertising, including reports and bulletins.....	35,700 00
Equipment, supplies and materials.....	30,225 00
Traveling expenses	
Officials and employees.....	84,000 00
Members of voluntary committee on preparation of codes and rules.....	1,000 00
Communication.....	36,550 00
Fixed charges and contributions	
Surety bonds.....	1,210 00
Expenses of state industrial congress.....	1,000 00
Sheriff and subpoena fees, et cetera.....	300 00
Retired veterans.....	2,250 00
Special stenographic reports.....	250 00
Rent.....	32,447 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment.....	10,000 00
Contingencies.....	2,550 00

**REGULATIVE
TRANSIT COMMISSION**

PERSONAL SERVICE

Commissioner, 3 at \$15,000.....	45,000 00
Counsel	10,000 00
Secretary	6,000 00

PUBLIC SERVICE COMMISSION

PERSONAL SERVICE

Executive	
Commissioner, 5 at \$15,000.....	75,000 00
Executive officer	10,000 00
Secretary	6,000 00
Assistant secretary	4,500 00
Assistant secretary	3,500 00
Legal	
Counsel	10,000 00
Assistant counsel	5,500 00
Assistant counsel, 3 at \$4,000.....	12,000 00
Junior assistant counsel.....	4,000 00
Junior assistant counsel.....	3,800 00
Junior assistant counsel.....	3,000 00
Clerk (law)	2,400 00
Clerk (law)	2,100 00
Administrative	
Confidential secretary to chairman.....	2,000 00
Secretary to commissioner, 4 at \$1,800.....	7,200 00
Executive clerk	5,000 00
Chief tariff clerk.....	4,500 00
Financial clerk	1,800 00
Chief clerk	2,100 00
Clerk	2,650 00
Clerk	2,000 00
Clerk	1,900 00
Clerk	1,750 00
Senior clerk	1,650 00
Clerk	1,650 00
File clerk, 3 at \$1,650.....	4,950 00
Clerk	1,600 00
File clerk, 2 at \$1,400.....	2,800 00
Clerk	1,380 00
Clerk, 2 at \$1,320.....	2,640 00
Clerk	900 00
Junior clerk, 4 at \$840.....	3,360 00
Clerk, 2 at \$720.....	1,440 00
Junior clerk	720 00
Chief stenographer	1,900 00
Stenographer, 3 at \$1,800.....	5,400 00
Stenographer	1,620 00
Stenographer	1,600 00
Stenographer, 3 at \$1,500.....	4,500 00
Stenographer, 2 at \$1,320.....	2,640 00
Stenographer, 6 at \$1,200.....	7,200 00
Stenographer, 2 at \$1,140.....	2,280 00
Bookkeeper	1,440 00
Bookkeeper	1,320 00
Proofreader or clerk.....	1,500 00
Messenger	1,440 00
Messenger	720 00
Telephone operator	1,200 00
Telephone operator	1,080 00
Telephone operator	1,020 00

EDUCATIONAL

BROCKPORT STATE NORMAL SCHOOL — *Continued*

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	10,000 00
Printing and advertising.....	750 00
Equipment, supplies and materials.....	7,000 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	700 00
Communication.....	500 00
Fixed charges and contributions.....	500 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	5,000 00
Contingencies.....	50 00

BUFFALO STATE NORMAL SCHOOL

PERSONAL SERVICE

(General)

Principal.....	4,500 00
Secretary to the principal.....	1,600 00
Secretary-treasurer, local board.....	400 00
Stenographer.....	1,000 00
Head of department.....	3,600 00
Head of department.....	3,500 00
Head of department.....	3,400 00
Head of department.....	3,200 00
Head of department.....	3,000 00
Head of department, 2 at \$2,800.....	5,600 00
Head of department.....	2,500 00
Assistant in department, 3 at \$2,600.....	7,800 00
Assistant in department, 2 at \$2,500.....	5,000 00
Assistant in department, 4 at \$2,300.....	9,200 00
Assistant in department, 4 at \$2,200.....	8,800 00
Assistant in department.....	2,100 00
Assistant in department.....	1,900 00
Assistant in department (part time).....	450 00
Critic or model teacher, 11 at \$300.....	3,300 00
Janitor.....	1,500 00
Laborer.....	1,020 00
Laborer.....	1,000 00
Cleaning women.....	2,300 00
Temporary services including team hire.....	200 00
Saturday extension staff.....	
Teachers.....	1,350 00

MAINTENANCE AND OPERATION

(General)

Fuel, light, power and water.....	9,000 00
Printing and advertising.....	1,150 00
Equipment, supplies and materials.....	8,000 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	500 00
Communication.....	900 00
Fixed charges and contributions.....	200 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	4,000 00
Contingencies.....	50 00

PERSONAL SERVICE

(Smith-Hughes Federal Act)

Home economics department, college grade.....	
Head of department.....	3,250 00
Assistant in department, 2 at \$2,600.....	5,200 00

EDUCATIONAL

BUFFALO STATE NORMAL SCHOOL — *Continued*

Instructor, 4 at \$1,900.....	7,600 00
Instructor	1,800 00
Instructor, 3 at \$1,700.....	5,100 00
Stenographer	900 00
Cleaning woman	250 00
Industrial department	
Head of department.....	3,750 00
Assistant in department, 3 at \$2,600.....	7,800 00
Instructor	1,900 00
Instructor	1,700 00
Heads of department or assistants in department (part-time evening work)	2,560 00
Extension classes, Rochester, evening	
Instructor, 4 at \$360.....	1,440 00
Night school	
Janitor	120 00
Laborer	120 00

MAINTENANCE AND OPERATION

(Smith-Hughes Federal Act)

Home economics department	
Printing	200 00
Equipment, supplies and materials.....	3,000 00
Traveling expenses (not more than \$100 of which may be used for traveling outside of state).....	300 00
Communication	120 00
Rent	780 00
Industrial department	
Printing	150 00
Equipment, supplies and materials.....	3,400 00
Traveling expenses (not more than \$100 of which may be used for traveling outside of state).....	500 00
Communication	50 00

CORTLAND STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	5,000 00
Confidential clerk	1,400 00
Head of department.....	4,000 00
Head of department.....	3,650 00
Head of department.....	3,300 00
Head of department.....	3,100 00
Head of department.....	2,950 00
Head of department.....	2,900 00
Head of department, 3 at \$2,600.....	7,800 00
Head of department.....	2,500 00
Assistant in department, 2 at \$2,300.....	4,600 00
Assistant in department 4 at \$2,200.....	8,800 00
Assistant in department, 6 at \$2,100.....	12,600 00
Critic or model teacher.....	2,050 00
Critic or model teacher, 5 at \$1,900.....	9,500 00
Critic or model teacher (part time).....	300 00
Janitor	1,200 00
Regular and temporary services.....	2,900 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	6,700 00
Printing and advertising.....	800 00
Equipment, supplies and materials.....	4,000 00
Traveling expenses, not more than \$50 of which may be used for traveling outside the state	500 00

EDUCATIONAL

CORTLAND STATE NORMAL SCHOOL — *Continued*

Communication	800 00
Fixed charges and contributions.....	100 00
Rent or repairs and alterations to buildings, repairs and replacements of mechanical equipment of rented property or in lieu of rent.....	4,000 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	800 00
Contingencies	50 00

FREDONIA STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	5,000 00
Secretary and treasurer.....	250 00
Principal's clerk	1,100 00
Financial clerk	660 00
Head of department, 3 at \$3,250.....	9,750 00
Head of department.....	3,200 00
Head of department.....	2,950 00
Head of department.....	2,900 00
Head of department.....	2,850 00
Head of department, 3 at \$2,600.....	7,800 00
Assistant in department.....	2,500 00
Assistant in department.....	2,400 00
Assistant in department, 3 at \$2,200.....	6,600 00
Assistant in department, 3 at \$2,100.....	6,300 00
Assistant in department.....	2,050 00
Assistant in department, 2 at \$2,000.....	4,000 00
Assistant in department.....	1,800 00
Assistant in department (part time).....	330 00
Critic or model teacher, 2 at \$2,150.....	4,300 00
Critic or model teacher.....	2,100 00
Critic or model teacher, 3 at \$2,050.....	6,150 00
Critic or model teacher, 2 at \$1,900.....	3,800 00
Janitor	1,400 00
Laborer, 2 at \$660.....	1,320 00
Temporary services	1,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	4,600 00
Printing and advertising.....	450 00
Equipment, supplies and materials.....	3,500 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	500 00
Communication	400 00
Fixed charges and contributions.....	300 00
Repairs and alterations to buildings, repairs and replacement of mechanical equipment.....	4,000 00
Contingencies	100 00

GENESEO STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal.....	5,000 00
Secretary	1,200 00
Stenographer.....	1,000 00
Head of department	3,600 00
Head of department	3,500 00
Head of department	3,200 00
Head of department, 2 at \$3,000.....	6,000 00

EDUCATIONAL

GENESEO STATE NORMAL SCHOOL — *Continued*

Head of department, 4 at \$2,900.....	11,600 00
Head of department	2,800 00
Assistant in department.....	2,400 00
Assistant in department, 3 at \$2,250.....	6,750 00
Assistant in department.....	2,200 00
Assistant in department.....	2,150 00
Assistant in department, 3 at \$2,050.....	6,150 00
Assistant in department, 2 at \$1,950.....	3,900 00
Assistant in department, 7 at \$1,900.....	13,300 00
Critic or model teacher.....	2,150 00
Critic or model teacher.....	2,100 00
Critic or model teacher, 3 at \$2,050.....	6,150 00
Critic or model teacher.....	2,000 00
Critic or model teacher.....	1,950 00
Critic or model teacher, 10 at \$1,900.....	19,000 00
Engineer janitor.....	1,200 00
Laborer.....	1,020 00
Laborer, 2 at \$900.....	1,800 00
Laborer.....	500 00
Laborer.....	150 00
Extension work at Craig Colony.....	11,200 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	10,200 00
Printing and advertising.....	625 00
Equipment, supplies and materials.....	5,500 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	550 00
Communication	650 00
Fixed charges and contributions.....	250 00
Rent	400 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	5,000 00
Contingencies	50 00
Extension work at Craig Colony	
Equipment, supplies and materials.....	2,400 00
Traveling expenses	400 00

NEW PALTZ STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	4,500 00
Secretary and treasurer, local board.....	400 00
Secretary to principal.....	1,200 00
Head of department, 2 at \$3,300.....	6,600 00
Head of department.....	3,250 00
Head of department.....	3,200 00
Head of department, 2 at \$3,000.....	6,000 00
Head of department.....	2,900 00
Head of department.....	2,650 00
Head of department.....	2,600 00
Head of department.....	2,550 00
Assistant in department.....	2,600 00
Assistant in department, 2 at \$2,150.....	4,300 00
Assistant in department, 2 at \$2,100.....	4,200 00
Assistant in department, 3 at \$2,000.....	6,000 00
Critic or model teacher, 6 at \$2,150.....	12,900 00
Critic or model teacher.....	1,950 00
Critic or model teacher.....	1,900 00

EDUCATIONAL

NEW PALTZ STATE NORMAL SCHOOL — *Continued*

Janitor	1,300 00
Laborer, 2 at \$900	1,800 00
Temporary services	500 00

MAINTENANCE AND OPERATION

Fuel, light, power and water	6,500 00
Printing and advertising	400 00
Equipment, supplies and materials	3,500 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state)	400 00
Communication	450 00
Fixed charges and contributions	300 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment	600 00
Contingencies	50 00

ONEONTA STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	5,000 00
Secretary-treasurer, local board	200 00
Secretary to principal	1,400 00
Head of department, 2 at \$4,000	8,000 00
Head of department	3,800 00
Head of department	3,600 00
Head of department	3,100 00
Head of department	3,000 00
Head of department	2,900 00
Head of department, 3 at \$2,700	8,100 00
Head of department	2,600 00
Assistant in department, 4 at \$2,400	9,600 00
Assistant in department	2,200 00
Assistant in department, 2 at \$2,150	4,300 00
Assistant in department, 2 at \$2,100	4,200 00
Assistant in department	2,000 00
Critic or model teacher	2,200 00
Critic or model teacher, 5 at \$2,150	10,750 00
Critic or model teacher	2,100 00
Critic or model teacher, 4 at \$2,050	8,200 00
Critic or model teacher, 4 at \$1,950	7,800 00
Critic or model teacher, 3 at \$1,900	5,700 00
Engineer	1,200 00
Janitor	840 00
Laborer	900 00
Laborer	840 00
Laborer	780 00
Temporary services	350 00

MAINTENANCE AND OPERATION

Fuel, light, power and water	6,400 00
Printing and advertising	900 00
Equipment, supplies and materials	6,000 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state)	450 00
Communication	700 00
Fixed charges and contributions	300 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment, including alterations for printing department	2,000 00
Contingencies	50 00

**EDUCATIONAL
OSWEGO STATE NORMAL SCHOOL**

PERSONAL SERVICE

(General)

Principal	5,000 00
Principal's secretary	1,500 00
Head of department.....	3,900 00
Head of department.....	3,600 00
Head of department.....	3,250 00
Head of department, 2 at \$2,900.....	5,800 00
Head of department, 2 at \$2,900.....	5,600 00
Head of department, 2 at \$2,650.....	5,300 00
Assistant in department.....	2,600 00
Assistant in department.....	2,500 00
Assistant in department, 2 at \$2,300.....	4,600 00
Assistant in department, 3 at \$2,250.....	6,750 00
Critic or model teacher.....	2,300 00
Critic or model teacher.....	2,200 00
Critic or model teacher.....	2,050 00
Critic or model teacher.....	2,000 00
Critic or model teacher, 4 at \$1,900.....	7,600 00
Janitor	1,000 00
Laborer	1,040 00
Laborer, 3 at \$1,000.....	3,000 00
Laborer, 4 at \$450.....	1,800 00
Temporary services	1,500 00

MAINTENANCE AND OPERATION

(General)

Fuel, light, power and water.....	13,400 00
Printing and advertising.....	385 00
Equipment, supplies and materials.....	5,750 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	700 00
Communication	600 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment, of which not less than \$900 may be expended for painting	3,500 00
Contingencies	50 00

PERSONAL SERVICE

(Smith-Hughes Federal Act)

Industrial department	
Head of department.....	4,000 00
Assistant in department, 4 at \$2,600.....	10,400 00
Assistant in department.....	2,400 00
Stenographer	1,000 00

MAINTENANCE AND OPERATION

(Smith-Hughes Federal Act)

Equipment, supplies and materials.....	8,500 00
Traveling expenses (not more than \$100 of which may be used for traveling outside the state).....	400 00
Communication	250 00

PLATTSBURG STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	5,000 00
Secretary-treasurer, local board.....	200 00
Principal's secretary	1,200 00
Head of department.....	3,500 00

EDUCATIONAL

PLATTSBURG STATE NORMAL SCHOOL — *Continued*

Head of department, 2 at \$3,400.....	6,800 00
Head of department, 2 at \$3,300.....	6,600 00
Head of department.....	3,200 00
Head of department.....	3,100 00
Head of department.....	2,800 00
Head of department, 2 at \$2,450.....	4,900 00
Assistant in department.....	2,400 00
Assistant in department, 3 at \$2,050.....	6,150 00
Assistant in department, 2 at \$2,000.....	4,000 00
Critic or model teacher, 5 at \$2,050.....	10,250 00
Critic or model teacher, 2 at \$2,000.....	4,000 00
Critic or model teacher.....	1,900 00
Janitor	1,000 00
Special policeman	875 00
Laborer	900 00
Temporary services	350 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	4,400 00
Printing and advertising.....	300 00
Equipment, supplies and materials.....	3,000 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	300 00
Communication	350 00
Fixed charges and contributions.....	200 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment of which not less than \$1,200 shall be expended, for repairs to windows and improvement to heat- ing system	2,500 00
Contingencies	100 00

POTSDAM STATE NORMAL SCHOOL

PERSONAL SERVICE

Principal	4,500 00
Secretary-treasurer local board.....	400 00
Secretary to principal.....	1,300 00
Clerk	660 00
Head of department.....	3,500 00
Head of department, 2 at \$3,300.....	6,600 00
Head of department, 2 at \$3,200.....	6,400 00
Head of department.....	3,000 00
Head of department, 2 at \$2,900.....	5,800 00
Head of department.....	2,750 00
Head of department.....	2,600 00
Assistant in department, 3 at \$2,600.....	7,800 00
Assistant in department.....	2,400 00
Assistant in department, 9 at \$2,200.....	19,800 00
Assistant in department.....	2,150 00
Assistant in department, 4 at \$2,100.....	8,400 00
Critic or model teacher.....	2,050 00
Critic or model teacher, 2 at \$2,000.....	4,000 00
Critic or model teacher.....	1,950 00
Critic or model teacher, 16 at \$1,900.....	30,400 00
Engineer	1,500 00
Laborer	960 00
Laborer, 7 at \$840.....	5,880 00
Laborer	480 00
Temporary services	1,900 00

EDUCATIONAL

POTSDAM STATE NORMAL SCHOOL — *Continued*

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	22,300 00
Printing and advertising.....	550 00
Equipment, supplies and materials.....	5,000 00
Traveling expenses (not more than \$50 of which may be used for traveling outside the state).....	600 00
Communication	575 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	2,500 00
Contingencies	400 00

SUMMER SESSIONS

PERSONAL SERVICE

(General)

Principal, 8 at \$500.....	4,000 00
Secretary to principal, 8 at \$125.....	1,000 00
Teaching staff	44,400 00
Janitor, 8 at \$75.....	600 00

MAINTENANCE AND OPERATION

(General)

Fuel, light, power and water.....	150 00
Printing	1,000 00
Equipment, supplies and materials.....	3,200 00

PERSONAL SERVICE

(Smith-Hughes Federal Act)

Teaching staff	10,800 00
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MAINTENANCE AND OPERATION

(Smith-Hughes Federal Act)

Equipment, supplies and materials.....	1,300 00
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SUBSTITUTE TEACHERS

PERSONAL SERVICE

Substitute teachers	3,775 00
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TRAINING OF INDUSTRIAL TEACHERS — NEW YORK CITY OR ALBANY

PERSONAL SERVICE

(Smith-Hughes Federal Act)

Teaching staff	
Instructor (part time).....	600 00
Instructor, 10 at \$420 (part time).....	4,200 00
Instructor, 2 at \$360 (part time).....	720 00

NEW YORK STATE COMMISSION FOR THE BLIND

For the expenses of maintenance and operation of the New York State Commission for the Blind, of which not more than \$48,000 may be available for personal service.....	82,125 00
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On or before June 15, 1922, the New York state commission for the blind shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund, such segregation shall have their approval and no change shall be made in this tentative segregation during the fiscal year commencing July 1, 1922, without their approval.

EDUCATIONAL

**FIXED CHARGES AND CONTRIBUTIONS
FOR THE EDUCATION OF THE BLIND, DEAF AND DUMB**

Blind and Deaf—State aid

For state aid for blind and deaf pupils in certain institutions to be paid for the purposes and in the manner provided by section nine hundred and thirty-six of the education law.....	7,500 00
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Albany Home School for the Oral Instruction of the Deaf

For the support and instruction of pupils at the Albany Home School for the Oral Instruction of the Deaf, at Albany, thirty pupils at four hundred ninety dollars.....	14,700 00
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Central New York Institution for the Improved Instruction of Deaf Mutes

For the support and instruction of pupils at the Central New York Institution for Improved Instruction of Deaf Mutes at Rome, seventy pupils at four hundred ninety dollars.....	34,300 00
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New York Institution for the Instruction of the Deaf and Dumb

For the support and instruction of pupils at the New York Institution for the Instruction of the Deaf and Dumb at New York city, two hundred seventy pupils at four hundred ninety dollars	132,300 00
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Institution for the Improved Instruction of Deaf Mutes

For the support and instruction of pupils at the Institution for the Improved Instruction of Deaf Mutes, New York city, one hundred twenty-eight pupils at four hundred ninety dollars	62,720 00
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Le Couteulx St. Mary's Institution for the Improved Instruction of Deaf Mutes

For the support and instruction of pupils at the Le Couteulx St. Mary's Institution for the Improved Instruction of Deaf Mutes at Buffalo, eighty-five pupils at four hundred ninety dollars	41,650 00
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The New York Institute for the Education of the Blind

For the support and instruction of pupils at the New York Institute for the Education of the Blind, ninety pupils at four hundred fifty dollars.....	40,500 00
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Northern New York Institution for Deaf Mutes

For the support and instruction of pupils at the Northern New York Institution for Deaf Mutes, sixty-five pupils at four hundred ninety dollars.....	31,850 00
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St. Joseph's Institute for the Improved Instruction of Deaf Mutes

For the support and instruction of pupils at the St. Joseph's Institute for the Improved Instruction of Deaf Mutes at Westchester, two hundred twenty-five pupils at four hundred ninety dollars	110,250 00
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Rochester School for the Deaf

For the support and instruction of pupils at the Rochester School for the Deaf, at Rochester, one hundred five pupils at four hundred ninety dollars.....	51,450 00
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International Sunshine Society

For the care of blind children at \$1.50 per day each.....	9,800 00
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EDUCATIONAL**FIXED CHARGES AND CONTRIBUTIONS — Continued****Central New York Institute for the Improved Instruction of
Deaf Mutes****MAINTENANCE AND OPERATION**

Repairs and alterations to buildings; repairs and replacement of mechanical equipment.....	8,000 00
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Northern New York Institution for Deaf Mutes**MAINTENANCE AND OPERATION**

Repairs to boilers.....	750 00
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**NEW YORK STATE SCHOOL OF CLAY-WORKING AND CERAMICS, AT
ALFRED UNIVERSITY****PERSONAL SERVICE**

Director and professor of ceramic technology.....	3,000 00
President and professor of ethics.....	1,000 00
Stenographer	900 00
Secretary-treasurer and accountant.....	300 00
Professor, 2 at \$2,000.....	4,000 00
Professor	1,600 00
Professor	1,500 00
Foreman of molds and pottery.....	500 00
Librarian	300 00
Janitor	960 00
Matron	150 00
Temporary services, general.....	450 00
For instruction of students in university classes.....	4,200 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	1,800 00
Printing and advertising.....	500 00
Equipment, supplies and materials.....	1,800 00
Traveling expenses, not more than \$100 of which may be used for traveling outside of state.....	400 00
Communication	250 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment	300 00

NEW YORK STATE NAUTICAL SCHOOL**PERSONAL SERVICE**

Office, board of governors	
Secretary and treasurer.....	3,000 00
Assistant secretary	1,200 00
Training ship "Newport"	
Superintendent and commanding officer.....	4,000 00
Executive officer and instructor.....	3,000 00
Navigator and senior instructor.....	2,400 00
Supply officer and junior instructor.....	2,200 00
Surgeon and instructor	2,400 00
Mathematics and Spanish instructor.....	1,200 00
Boatswain and practical instructor.....	1,500 00
Master at arms	1,400 00
Carpenter	1,000 00
Sailmaker	1,000 00
Chief quartermaster	1,020 00
Quartermaster, 2, 6 months at \$80 per month.....	960 00
Ship's clerk	1,000 00
Captain of hold and storekeeper.....	720 00

EDUCATIONAL

NEW YORK STATE NAUTICAL SCHOOL—*Continued*

Tailor	720 00
Seaman, 3 at \$780.....	2,340 00
Chief engineer and senior instructor.....	3,000 00
Assistant engineer and junior instructor.....	2,200 00
First machinist and practical instructor.....	1,300 00
Second machinist and practical instructor.....	1,200 00
Electrician and radio operator, 6 months.....	600 00
Oiler and water tender, 3 at \$1,000.....	3,000 00
Commissary steward	1,400 00
Ship's cook	1,200 00
Cabin and wardroom steward.....	1,200 00
Assistant ship's cook	840 00
Cabin boy	600 00
Wardroom boy	600 00
Messman crew, 2 at \$600.....	1,200 00

MAINTENANCE AND OPERATION

Food	26,000 00
Fuel, light, power and water.....	6,000 00
Printing and advertising	
General	500 00
Departmental reports	100 00
Equipment, supplies and materials.....	8,000 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state.....	450 00
Communication	400 00
Rent	785 00
Repairs—materials and supplies	2,000 00
Contingencies	1,000 00

AGRICULTURAL

DEPARTMENT OF FARMS AND MARKETS

For the expenses of maintenance and operation of the Department of Farms and Markets of which not more than \$515,550.00 may be available for personal service.....	847,902 00
On or before June 15, 1922, the department of farms and markets shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund, such segregation shall have their approval and no change shall be made in this tentative segregation during the fiscal year commencing July 1, 1922, without their approval.	

NEW YORK AGRICULTURAL EXPERIMENT STATION, GENEVA

PERSONAL SERVICE

Director	6,000 00
Vice director and chief in research.....	4,000 00
Secretary and treasurer	700 00
Editor and librarian	3,000 00
Assistant editor and librarian.....	1,500 00
Museum preparator (5 months).....	1,000 00
Mailing clerk	1,200 00
Stenographer, 2 at \$1,500.....	3,000 00
Stenographer	1,200 00
Stenographer, 4 at \$1,000.....	4,000 00
Chief in research, not to exceed 7 at not to exceed \$4,000 each..	24,500 00
Associate in research, not to exceed 13 at not to exceed \$3,000 each	34,100 00

AGRICULTURAL

AGRICULTURAL EXPERIMENT STATION, GENEVA — *Continued*

Assistant in research, not to exceed 8 at not to exceed \$1,900 each	14,700 00
Associate chemist	2,750 00
Assistant chemist, not to exceed 5 at not to exceed \$1,900 each	8,900 00
Associate botanist	2,500 00
Assistant botanist	1,500 00
Agriculturist	2,000 00
Florist	1,500 00
Poultryman	1,140 00
Foreman in orchards	1,140 00
Dairy helper	1,140 00
Herdman	840 00
Mechanic	1,200 00
Janitor, 2 at \$1,140	2,280 00
Engineer	1,140 00
Watchman	1,080 00
Laborers	23,990 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, not to exceed \$500 of which may be used for traveling outside the state	49,400 00
Maintenance undistributed	
For the expenses, including personal service for research and investigation of "insecticides" and "fungicides," as provided by chapter eight hundred and ninety-five, laws of nineteen hundred and twenty	5,000 00
For the expenses, including personal services of an investigation into methods of suppressing or controlling insect pests and diseases affecting raspberry plants	4,000 00

CORNELL UNIVERSITY

MAINTENANCE AND OPERATION

Fixed charges and contributions land scrip fund interest	34,428 80
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NEW YORK STATE COLLEGE OF AGRICULTURE AT CORNELL UNIVERSITY

PERSONAL SERVICE

Dean and director	7,500 00
Vice-director of extension	4,000 00
Vice-dean of resident instruction	6,000 00
Vice-director of research	6,000 00
Professor of farm practice and farm superintendence	4,500 00
Heads of departments, not to exceed 19 at not to exceed \$5,000 each	77,250 00
Professors, assistant professors or instructors, at not to exceed \$4,750 each for professors, \$3,250 each for assistant professors, and \$2,250 each for instructors	304,450 00
Assistants, not to exceed 40 at not to exceed \$1,200 each	29,800 00
Assistant secretary	2,000 00
Librarian	2,250 00
Reference librarian	1,200 00
Library assistants, not to exceed 5, at not to exceed \$1,000 each	4,540 00
Managing clerk	2,000 00
Chief clerk	2,250 00
Assistant to treasurer	1,500 00
Clerk, assistant	1,500 00
Bookkeepers, clerks and stenographers, not to exceed 63, at not to exceed \$1,500	54,560 00
Superintendent	1,500 00
Farm superintendent	2,100 00

AGRICULTURAL

COLLEGE OF AGRICULTURE, CORNELL UNIVERSITY — *Continued*

Experimentalist	2,250 00
Superintendent of investigational plots	1,500 00
Assistant farm superintendent	1,500 00
Superintendent of greenhouses	1,200 00
Coal superintendent and engineer	1,140 00
Superintendent of orchards	1,020 00
Freight superintendent and truckman	1,080 00
Stockman	1,800 00
Field assistant	900 00
Horseman	2,000 00
Soil surveyor	2,000 00
Assistant soil surveyor (5 months, part time)	375 00
Photographer and stockroom keeper	1,600 00
Stockroom keeper	840 00
Preparator, 2 at \$900	1,800 00
Sales manager	840 00
Saleswoman	780 00
Foreman	2,200 00
Foreman	1,500 00
Foreman	1,320 00
Foreman	1,140 00
Foreman	1,000 00
Foreman	900 00
Gardeners	6,120 00
Helpers	11,080 00
Engineer	2,000 00
Repairmen	12,000 00
Mechanic	1,500 00
Mechanic	1,260 00
Ice machine operator	840 00
Head teamster	1,080 00
Teamster, 2 at \$1,020	2,040 00
Janitor and auditorium attendant	900 00
Janitors and janitresses	11,700 00
Firemen	7,000 00
Watchman	900 00
Messenger	180 00
Temporary services	
Wages, temporary	37,000 00
Extension service	
Professors, assistant professors, or instructors at not to exceed \$4,750 each for professors; \$3,250 each for assistant professors and \$2,250 each for instructors	111,950 00
Assistant	900 00
Illustrator	2,250 00
Assistant editor	1,600 00
Assistant editor	1,300 00
County agent leader and assistant county agent leader, 4 at \$1,500	6,000 00
Assistant state home demonstration agent leader, 2 at \$2,250	4,500 00
Assistant state home demonstration agent leader	2,200 00
Bookkeepers, clerks, and stenographers, not to exceed 20 at not to exceed \$1,500 each	23,520 00
Chauffeur and mechanic	1,200 00
Lecturers in extension work including schools and farmers' institutes and laborers	15,000 00
School of home economics	
Heads of departments, not to exceed 2 at not to exceed \$5,000 each	8,000 00

AGRICULTURAL

COLLEGE OF AGRICULTURE, CORNELL UNIVERSITY — *Continued*

Professors, assistant professors, or instructors at not to exceed \$4,250 each for professors, \$3,250 each for assistant professors and \$2,250 each for instructors.....	38,950 00
Secretary to department.....	2,500 00
Clerks and stenographers, not to exceed \$1,500 each.....	7,820 00
Housekeeper.....	780 00
Housekeeper.....	720 00
Extension service	
Professors, assistant professors or instructors, at not to exceed \$4,250 each for professors, \$3,250 each for assistant professors and \$2,250 each for instructors.....	12,800 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	42,000 00
Printing	
General.....	5,900 00
Departmental reports and bulletins.....	45,000 00
Equipment, supplies and materials, including the purchase or exchange of automobile or automobiles, not to exceed \$2,000...	70,000 00
Traveling expenses, not more than \$1,500 of which may be used for traveling outside the state.....	40,000 00
Communication.....	14,000 00
Fixed charges and contributions	
Payment for instruction of College of Agriculture students in university classes.....	88,000 00
Summer school.....	15,000 00
For continuance of investigation of bean production.....	4,500 00
Extension work with Indians, in accordance with chapter 662 of the laws of 1920.....	6,000 00
Expenses of fair exhibit farmers' week and field days.....	1,000 00
Rent.....	1,300 00
Repairs and alterations to buildings, repairs and replacements of mechanical equipment.....	7,000 00

NEW YORK STATE VETERINARY COLLEGE CORNELL UNIVERSITY

PERSONAL SERVICE

Dean.....	6,000 00
Clerk and bookkeeper.....	1,620 00
Stenographer and secretary.....	1,020 00
Stenographer and clerk.....	900 00
Librarian.....	900 00
Heads of departments, not to exceed 6 at not to exceed \$4,750 each.....	27,250 00
Professors, assistant professors, or instructors, at not to exceed \$3,500 each for professors, \$2,400 each for assistant professors, and \$1,800 each for instructors.....	32,540 00
Assistants, not to exceed 3 at not to exceed \$1,000 each.....	1,750 00
Engineer.....	1,020 00
Assistant engineer.....	840 00
Attendant.....	960 00
Attendant, 4 at \$900.....	3,600 00
Groom, 3 at \$900.....	2,700 00
Teamster, 2 at \$900.....	1,800 00
Janitor, 2 at \$780.....	1,560 00
Temporary services including non-resident lecturers.....	1,600 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	4,500 00
Printing and advertising	
General.....	700 00
Departmental reports and bulletins.....	1,300 00

AGRICULTURAL

STATE VETERINARY COLLEGE, CORNELL UNIVERSITY — *Continued*

Equipment, supplies and materials.....	7,500 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state.....	500 00
Communication	1,200 00
Fixed charges and contributions	
Investigation of animal diseases.....	6,000 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	1,200 00

NEW YORK STATE SCHOOL OF AGRICULTURE AT ALFRED
UNIVERSITY

PERSONAL SERVICE

Director and professor of horticulture.....	3,000 00
President and professor of rural sociology and ethics.....	1,000 00
Stenographer	960 00
Secretary-treasurer and accountant.....	900 00
Instructor, not to exceed 11, at not to exceed \$2,000 each.....	18,300 00
Farm superintendent and instructor in farm practice.....	1,500 00
Assistant, not to exceed 4, at not to exceed \$800 each.....	2,250 00
Librarian and registrar	900 00
Head janitor and superintendent of buildings.....	960 00
Herdsmen	960 00
Laborers	3,840 00
Temporary services for entire school.....	1,700 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	2,400 00
Printing and advertising (including departmental report)	1,000 00
Equipment, supplies and materials.....	8,500 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state	1,200 00
Communication	900 00
Rent	500 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment.....	1,100 00
Contingencies, including veterinary services, laundry, notary fees, lectures, developing photographs and registrations.....	500 00

NEW YORK STATE SCHOOL OF AGRICULTURE, AT COBLESKILL

PERSONAL SERVICE

Director.....	3,000 00
Stenographer.....	960 00
Clerk or stenographer.....	1,500 00
Instructor, not to exceed 9 at not to exceed \$2,000 each.....	15,800 00
Instruction for returned soldiers.....	5,000 00
Farm superintendent and assistant in agronomy.....	1,200 00
Janitor.....	1,100 00
Watchman.....	900 00
Regular and temporary services as needed, including students, artisans, mechanics, laborers, etc.....	5,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	2,400 00
Printing and advertising (including departmental report).....	900 00
Equipment, supplies and materials.....	9,500 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state.....	1,300 00
Communication	700 00
Rent.....	200 00

AGRICULTURAL

SCHOOL OF AGRICULTURE, CORLESKILL — *Continued*

Repairs and alterations to buildings; repairs and replacements of mechanical equipment, including grading and construction of roads	2,000 00
Contingencies, including registration fees, tests, etc.	600 00

STATE SCHOOL OF AGRICULTURE AND DOMESTIC SCIENCE AT DELHI

PERSONAL SERVICE

Director	3,000 00
Stenographer	960 00
Instructor, not to exceed 8, at not to exceed \$2,000 each	14,400 00
Farm superintendent and instructor	1,400 00
Herdeman	1,200 00
Janitor and engineer	1,100 00
Laborers	2,550 00

MAINTENANCE AND OPERATION

Fuel, light, power and water	2,000 00
Printing and advertising, including departmental reports and bulletins	500 00
Equipment, supplies and materials	7,000 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state, including expenses of lecturers	1,000 00
Communication	600 00
Rent	200 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	750 00
Contingencies	200 00

STATE INSTITUTE OF APPLIED AGRICULTURE ON LONG ISLAND, FARMINGDALE

PERSONAL SERVICE

Director, head of extension service	5,000 00
Secretary and office manager	1,600 00
Registrar	1,500 00
Bookkeeper and cashier	1,800 00
Stenographer	1,200 00
Stenographer	1,100 00
Filing clerk and telephone operator	960 00
Instructor, not to exceed 36, at not to exceed \$3,000 each	63,750 00
Librarian	1,100 00
Chief engineer	2,000 00
Assistant engineer, 2 at \$1,500	3,000 00
Plumber	1,200 00
Fireman, 3 at \$1,100	3,300 00
Supervising and working carpenter	1,700 00
Janitors, laborers and watchman, at not to exceed \$1,000 each ..	6,580 00
Egg laying and poultry breeding contest	
Instructors and poultrymen	4,600 00

MAINTENANCE AND OPERATION

Fuel, light, power and water	12,000 00
Printing, including departmental reports and bulletins	1,900 00
Equipment, supplies and materials	24,000 00
Traveling expenses, not more than \$150 of which may be used traveling outside the state	1,500 00
Communication	2,000 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment,* of which not less than \$600 shall be expended for painting	4,000 00
Contingencies	300 00

* So in original. [Word misspelled.]

AGRICULTURAL

NEW YORK STATE SCHOOL OF AGRICULTURE, MORRISVILLE

PERSONAL SERVICE

Director	3,000 00
Clerk and secretary to director.....	1,500 00
Stenographer	960 00
Instructor, not to exceed 11, at not to exceed \$2,000 each.....	18,020 00
Instructor, part time	400 00
Assistant, 2 at \$1,200.....	2,400 00
Assistant, 2 at \$1,080.....	2,160 00
Farm superintendent	1,400 00
Extension service, lectures, experts, demonstrators, et cetera....	1,000 00
Head janitor	1,000 00
Fireman and assistant janitor.....	900 00
Watchman	1,000 00
Mechanic	1,400 00
Teamsters, laborers, et cetera.....	4,920 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	5,000 00
Printing and advertising, including departmental reports.....	900 00
Equipment, supplies and materials.....	8,000 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state.....	1,000 00
Communication	850 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	500 00
Contingencies	300 00

STATE SCHOOL OF AGRICULTURE, ST. LAWRENCE UNIVERSITY,
CANTON

PERSONAL SERVICE

Director	3,000 00
Stenographer	960 00
Treasurer and accountant	1,500 00
Assistant to treasurer	480 00
Secretary to board of trustees.....	800 00
Assistant to secretary	312 00
Instructors, not to exceed 10 at not to exceed \$2,000 each....	17,800 00
Assistant instructors, not to exceed 5, at not to exceed \$1,500 each	6,080 00
Farm superintendent	1,200 00
Engineer and janitor	1,500 00
Assistant janitor	840 00
Assistant	840 00
Laborers	2,520 00
Temporary and special services.....	300 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	3,000 00
Printing and advertising, including departmental reports and bulletins	400 00
Equipment, supplies and materials, including the purchase or exchange of automobile at not to exceed \$600.....	5,000 00
Traveling expenses, not more than \$100 of which may be used for traveling outside the state.....	700 00
Communication	500 00
Rent	300 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	1,000 00

**AGRICULTURAL
NEW YORK STATE COLLEGE OF FORESTRY AT SYRACUSE
UNIVERSITY**

PERSONAL SERVICE

Dean and professor of silviculture.....	6,000 00
Secretary to dean	1,300 00
Assistant treasurer	2,000 00
Assistant treasurer	600 00
Secretary to board of trustees.....	120 00
Cashier and bookkeeper	1,200 00
Stenographer	1,100 00
Stenographer and office clerk.....	1,100 00
Stenographer	1,000 00
Stenographer, 2 at \$900	1,800 00
Multigraph operator, clerk and messenger.....	1,000 00
Librarian	1,200 00
Reference librarian	1,000 00
Registrar and assistant professor.....	2,000 00
Professor	5,000 00
Professor	4,000 00
Professor, 7 at \$3,750.....	26,250 00
Professor, 2 at \$3,500.....	7,000 00
Professor, 2 at \$3,000.....	6,000 00
Director	4,000 00
Director	3,500 00
Assistant professor, 6 at \$2,750.....	16,500 00
Instructor, 6 at \$1,900.....	11,400 00
Instructor	1,600 00
Instructor	1,500 00
Instructor	1,200 00
Laboratory assistant	1,500 00
Field assistant and instructor.....	1,200 00
Nurseryman	1,000 00
Foreman	2,400 00
Teamster, 3 at \$800.....	780 00
Teamster	900 00
Bookkeeper	1,000 00
Yardman	1,400 00
Engineer	1,200 00
Assistant engineer and repairman.....	2,200 00
Fireman, 2 at \$1,100.....	1,000 00
Janitor	4,500 00
Temporary services	10,000 00
Temporary services, accessory instruction.....	

MAINTENANCE AND OPERATION

Food	500 00
Fuel, light, power and water.....	7,000 00
Printing and advertising, including departmental reports and bulletins	5,500 00
Equipment, supplies and materials.....	21,500 00
Traveling expenses, not more than \$200 of which may be used for traveling outside the state.....	5,000 00
Communication	3,000 00
Fixed charges and contributions.....	500 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	2,250 00
Maintenance undistributed	
Extension work	5,000 00
Wild life investigation, and Roosevelt wild life experiment station	10,000 00

**AGRICULTURAL
STATE FAIR COMMISSION
PERSONAL SERVICE**

New York state fair commissioner, 5 at \$2,000.....	10,000 00
Secretary	5,000 00
Treasurer	3,250 00
Superintendent	3,000 00
Gardener	1,800 00
Race secretary	1,200 00
Horse show secretary	750 00
Temporary services	11,700 00

MAINTENANCE AND OPERATION

Printing and advertising	18,000 00
Equipment, supplies and materials, including purchase or exchange of automobile	13,750 00
Traveling expenses, not more than \$500 of which may be used for traveling outside the state.....	2,000 00
Communication	2,600 00
Fixed charges and contributions	
Premiums	55,000 00
Exhibits of state institutions, collection and display.....	7,500 00
Collection and display of county agricultural exhibits and salary and expenses of superintendent.....	3,500 00
Rent	2,400 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	25,000 00

DEFENSIVE

ADJUTANT-GENERAL'S OFFICE

PERSONAL SERVICE

Adjutant-general	7,500 00
Assistant adjutant-general	4,800 00
Director of bureau	3,300 00
Director of bureau	2,700 00
Assistant chief of bureau.....	2,300 00
Bookkeeper	1,800 00
Chief clerk, 3 at \$2,100.....	6,300 00
Chief clerk	1,500 00
Senior clerk	1,700 00
Clerk	1,800 00
Clerk	1,700 00
Clerk	1,500 00
Clerk, 7 at \$1,320.....	9,240 00
Clerk, 2 at \$1,200.....	2,400 00
Clerk	1,000 00
Stenographer, 3 at \$1,500.....	4,500 00
Stenographer, 3 at \$1,200.....	3,600 00
Stenographer	1,000 00
Multigraph operator	980 00
Telephone operator	1,200 00
Telephone operator	1,100 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	7,500 00
Departmental reports	600 00
Equipment, supplies and materials	3,500 00
Traveling expenses, not more than \$1,000 of which may be used for traveling outside the state.....	3,200 00
Communication	
General	2,500 00
Special telephone wire to New York.....	3,528 00

DEFENSIVE

ADJUTANT-GENERAL'S OFFICE — *Continued*

Fixed charges and contributions	
Retired veterans	2,200 00
Surety bonds and insurance premiums.....	500 00
Contingencies	500 00
Maintenance undistributed	
Service badges and ribbons, as authorized by chapter six hundred and seventy-two, laws of nineteen hundred and twenty	1,000 00
Service ribbons and honor medal board as provided by chapter one hundred and twenty-two, laws of nineteen hundred and nineteen	1,000 00
World's war military decoration as provided by chapter six hundred and twenty-seven, laws of nineteen hundred and twenty	3,000 00
Preparations of the records of New York state troops in world war, as authorized by chapter one hundred and seventy-seven, laws of nineteen hundred and nineteen — part two. For expenses, including personal service and traveling outside of the state, of the preparation and compiling of the records of New York state troops in the service of the United States during the world war.....	15,000 00
For preparation and presentation of claims of state of New York against the federal government growing out of and incident to the calls of the president for troops for Mexican border service in 1916 and growing out of and incident to the war with Germany, including personal service, travel, travel outside of state and other expenses.....	12,500 00

STATE ARSENAL — NEW YORK CITY

PERSONAL SERVICE

Assistant adjutant-general	3,750 00
Director	2,500 00
Chief clerk	1,500 00
Superintendent	2,200 00
Stenographer	1,500 00
Stenographer	1,440 00
Stenographer, 3 at \$1,200.....	3,600 00
Clerk, 2 at \$1,500.....	3,000 00
Clerk	1,320 00
Clerk	1,200 00
Clerk	1,140 00
Clerk	840 00
Filing clerk	1,320 00
Shipping clerk	1,320 00
Foreman, 2 at \$1,320	2,640 00
Armorer	1,600 00
Chief mechanic	1,800 00
Chauffeur	1,800 00
Chauffeur, 6 at \$1,500.....	9,000 00
Hostler, 2 at \$1,100.....	2,200 00
Engineer	1,200 00
Janitor	1,200 00
Telephone operator	1,080 00
Watchman, 4 at \$1,200.....	4,800 00
Laborer, 7 at \$1,200.....	8,400 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	3,500 00
Printing and advertising	800 00
Equipment, supplies and materials.....	2,500 00
Communication	4,500 00
Contingencies	1,000 00

DEFENSIVE

NEW YORK NATIONAL GUARD AND NEW YORK GUARD

PERSONAL SERVICE

Rangekeeper, Peekskill rifle range.....	1,200 00
Administration, instruction and discipline	
Salaries, temporary	
For the payment for services of officers and enlisted men on special duty and temporary labor.....	20,000 00

MAINTENANCE AND OPERATION

Equipment, supplies and materials.....	28,500 00
Traveling expenses, not more than \$2,000 of which may be used for traveling outside the state.....	7,000 00
Communication	3,000 00
Fixed charges and contributions	
Allowance to headquarters	46,400 00
Allowance to officers and organizations	145,000 00
Prizes, small arms firing.....	1,000 00
Pensions and disability claims.....	23,000 00
Decorations, long and faithful service.....	7,000 00
Engrossing	1,000 00
Retired veterans	4,987 56
Surety bonds and insurance premiums.....	750 00
Contingencies	1,000 00

SMALL ARMS PRACTICE

PERSONAL SERVICE

Pay of troops on duty as markers and scorers, and civilian markers and scorers	5,000 00
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MAINTENANCE AND OPERATION

Food	1,000 00
Traveling expenses	5,000 00

DIVISION HEADQUARTERS

PERSONAL SERVICE

Major-general	8,000 00
Assistant chief of staff.....	3,300 00
Adjutant	3,000 00
Assistant adjutant	2,500 00
Inspector	1,000 00
Assistant quartermaster	3,000 00
Ordnance officer, 2 at \$3,000.....	6,000 00
Coast defense officer	2,000 00
Chief clerk	2,200 00
Senior clerk	1,800 00
Senior stenographer	2,000 00
Senior stenographer, 3 at \$1,440.....	4,320 00
Junior stenographer, 2 at \$960.....	1,920 00
Telephone operator	1,320 00
Chauffeur	1,500 00

MAINTENANCE AND OPERATION

Printing	1,500 00
Equipment, supplies and materials.....	2,900 00
Traveling expenses, not more than \$2,000 of which may be used for traveling outside the state.....	5,000 00
Communication	3,000 00
Contingencies	500 00

DEFENSIVE
NAVAL MILITIA
PERSONAL SERVICE

Commodore	6,000 00
Clerk	2,500 00
Stenographer	1,000 00
Pay of officers and enlisted men assigned to special duty.....	4,000 00
Laborers on board vessels and launches.....	2,500 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	1,000 00
Equipment, supplies and materials.....	500 00
Traveling expenses, not more than \$750 of which may be used for traveling outside the state.....	1,700 00
Fixed charges and contributions	
Target practice, small arms firing, exercises and instruction..	7,000 00
Allowance to headquarters, officers and organizations, and prizes, small arms firing	23,500 00
Repairs and alterations to boats.....	500 00

STATE ARMORY COMMISSION
PERSONAL SERVICE

Secretary	4,250 00
Assistant secretary	2,400 00
Inspector-architect	3,500 00
Stenographer	1,200 00
Clerk	660 00
Commissioners, per diem	2,000 00
Range keeper, Kenilworth rifle range, 6 months.....	600 00

MAINTENANCE AND OPERATION

Printing and advertising	750 00
Equipment, supplies and materials.....	725 00
Traveling expenses	3,500 00
Communication	1,000 00
Rent or acquisition of real estate as provided by chapter 583, Laws of 1921	15,000 00
Contingencies	350 00

CAMP OF INSTRUCTION, PEEKSKILL
PERSONAL SERVICE

Caretaker	1,800 00
Laborers	4,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	600 00
Equipment, supplies and materials	4,300 00
Communication	350 00

GRAND ARMY OF THE REPUBLIC
PERSONAL SERVICE

Secretary	1,600 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation, including not to exceed \$100 for traveling outside the state.....	2,500 00
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UNITED SPANISH WAR VETERANS
MAINTENANCE AND OPERATION

Printing, departmental reports	1,000 00
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AMERICAN LEGION, DEPARTMENT OF NEW YORK
MAINTENANCE AND OPERATION

Printing, departmental reports	1,000 00
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PENAL**PRISON DEPARTMENT—MAIN OFFICE****PERSONAL SERVICE**

Superintendent	8,000 00
Deputy superintendent	4,500 00
Chief of bureau	4,000 00
Chief of bureau	1,600 00
Confidential agent	3,250 00
Chief of parole bureau.....	3,000 00
Record clerk	2,200 00
Transfer clerk	2,750 00
Junior clerk, 2 at \$960.....	1,920 00
Junior clerk or messenger.....	840 00
Chief stenographer	1,700 00
Stenographer	1,380 00
Stenographer, 4 at \$1,260.....	5,040 00
Stenographer	1,020 00
Bertillon indexer, 3 at \$1,320.....	3,960 00
Telephone operator	960 00
Chauffeur and mechanic	1,500 00

MAINTENANCE AND OPERATION

Printing and advertising	1,850 00
Equipment, supplies and materials, not to exceed \$1,000 for automobile repairs and accessories.....	2,800 00
Traveling expenses, not more than \$600 of which may be used for traveling outside the state, and not to exceed \$600 for automobile storage, gasoline and oil.....	3,650 00
Communication	1,500 00
Fixed charges and contributions	4,200 00

STATE COMMISSION OF PRISONS**PERSONAL SERVICE**

Commissioner, 7 at \$1,000.....	7,000 00
Secretary	4,000 00
Chief clerk	3,500 00
Chief inspector	2,400 00
Inspector	2,000 00
Hearing stenographer	1,800 00
Temporary services	500 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	700 00
Departmental reports and bulletins.....	1,700 00
Equipment, supplies and materials.....	900 00
Traveling expenses	
Commissioners' expenses	3,950 00
Employees' expenses	1,800 00
Delegates to national congresses.....	250 00
Communication	700 00

STATE PROBATION COMMISSION**PERSONAL SERVICE**

Secretary	3,750 00
Assistant secretary	2,250 00
Chief clerk and hearing stenographer.....	2,000 00
Stenographer	1,140 00
Temporary service	100 00

PENAL

STATE PROBATION COMMISSION — *Continued*

MAINTENANCE AND OPERATION

Printing and advertising	
General	1,800 00
Departmental reports and bulletins	1,200 00
Equipment, supplies and materials	600 00
Traveling expenses, not more than \$300 of which may be used for traveling outside the state	2,000 00
Communication	1,200 00
Contingencies	100 00

BOARD OF PAROLE

PERSONAL SERVICE

Member, 2 at \$3,600	7,200 00
Parole officer	1,800 00
Parole officer	1,600 00
Parole officer	1,320 00

MAINTENANCE AND OPERATION

Printing	75 00
Equipment, supplies and materials	75 00
Traveling expenses, not more than \$1,800 of which may be used for traveling outside the state	3,000 00
Communication	100 00
Fixed charges and contributions, pension	762 50
Contingencies	25 00

PRISON ASSOCIATION OF NEW YORK

MAINTENANCE AND OPERATION

Printing — departmental report	800 00
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STATE PRISONS

The appropriations hereby made for the several state prisons and the state hospitals for the criminal insane shall be expended by each state prison and the state hospitals for the criminal insane in accordance with the provisions of a schedule to be filed for each prison and state hospital for the criminal insane by the Legislative Budget Committee with the State Comptroller, the State Superintendent of Prisons and the Civil Service Commission.

AUBURN PRISON

For maintenance, of which not to exceed \$186,425 shall be expended for personal service	444,353 31
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STATE PRISON FOR WOMEN

For maintenance, of which not to exceed \$20,045 shall be expended for personal service	47,034 20
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CLINTON PRISON

For maintenance, of which not to exceed \$199,630 shall be expended for personal service	421,803 00
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GREAT MEADOW PRISON

For maintenance, of which not to exceed \$120,868.33 shall be expended for personal service	255,418 33
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SING SING PRISON

For maintenance, of which not to exceed \$204,630 shall be expended for personal service	444,895 00
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PENAL

DANNEMORA STATE HOSPITAL

For maintenance, of which not to exceed \$134,064.66 shall be expended for personal service.....	248,214 66
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MATTEAWAN STATE HOSPITAL

For maintenance, of which not to exceed \$217,414 shall be expended for personal service.....	386,208 00
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STATE COMPTROLLER

MAINTENANCE AND OPERATION

Fixed charges and contributions	
Transportation of convicts.....	15,000 00
Board of prisoners in penitentiaries.....	75,000 00

CURATIVE

STATE HOSPITAL COMMISSION

PERSONAL SERVICE

Medical commissioner	10,000 00
Legal commissioner	5,000 00
Lay commissioner	5,000 00
Medical inspector	5,000 00
Secretary	5,000 00
Traveling steward	4,500 00
Inspector of buildings and engineering.....	3,500 00
Inspector of dairy products.....	3,500 00
Inspector	3,100 00
Statistician and editor.....	4,000 00
Assistant statistician	2,000 00
Auditor	5,000 00
Assistant auditor	3,350 00
Assistant auditor	3,000 00
Accountant	2,500 00
Confidential accountant	4,250 00
Counsel	3,000 00
Medical examiner	5,000 00
Deputy medical examiner, bureau of deportation.....	3,500 00
Transportation agent or secretary.....	1,500 00
Transportation agent	1,300 00
Inspector or interpreter, bureau of deportation.....	1,300 00
Chemist	600 00
Agent	2,500 00
Agent, 6 at \$8 per day, 300 days each.....	14,400 00
Agent, 280 days at \$8 per day.....	2,240 00
Indexer	1,400 00
Clerk and stenographer.....	1,800 00
Voucher clerk	2,100 00
Voucher clerk, 2 at \$1,800.....	3,600 00
Clerk, 2 at \$1,800.....	3,600 00
Clerk	1,600 00
Clerk	1,500 00
Clerk	1,360 00
Clerk	1,000 00
Clerk, 4 at \$900.....	3,600 00
Stenographer, 2 at \$1,440.....	2,880 00
Stenographer	1,380 00
Stenographer	1,320 00
Stenographer, 3 at \$1,200.....	3,600 00
Stenographer	1,000 00
Telephone operator	1,000 00

CURATIVE

STATE HOSPITAL COMMISSION — *Continued*

Salaries, temporary	
For vacation relief and extra work.....	2,000 00
Psychiatric Institute	
Director	4,775 00
Assistant director	3,300 00
Chief associate in neuropathology.....	3,500 00
Assistant in neuropathology.....	2,150 00
Senior assistant physician.....	2,316 67
Assistant physician	1,700 00
Assistant in biological chemistry.....	1,700 00
Associate in bacteriology.....	2,400 00
Associate in internal medicine and clinical pathology.....	2,350 00
Secretary	1,600 00
Medical stenographer	1,200 00
Stenographer	1,008 00
Stenographer	420 00
Laboratory helper	980 00
Laboratory helper	840 00
Laboratory helper	720 00
Laboratory helper	600 00
Laboratory mechanician	1,020 00
Photographer	1,200 00
Attendant	336 00
Cook	720 00
Waitress	672 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	2,500 00
Departmental reports and bulletins.....	1,000 00
Equipment, supplies and materials.....	7,000 00
Traveling expenses	
Commissioners (as provided by chapter twenty-seven of the consolidated laws)	3,600 00
Employees, not more than \$900 of which may be used for traveling outside the state.....	15,000 00
For transfer of patients from one hospital to another to relieve overcrowding, and for the return to other states and countries of nonresident and alien insane.....	30,000 00
Communication	4,000 00
Fixed charges and contributions	
Surety bonds and insurance premiums.....	2,700 00
Commutation	4,152 00
Rent	750 00
Maintenance undistributed	
For the expenses, including personal service of extending the work of occupational therapy in the various hospitals, to be expended and distributed by the hospital commission.....	13,700 00

STATE HOSPITALS

The appropriations hereby made for the several state hospitals shall be expended by each state hospital in accordance with the provisions of a schedule to be filed for each hospital by the Legislative Budget Committee with the State Comptroller, the State Hospital Commission and the Civil Service Commission.

BINGHAMTON STATE HOSPITAL

For maintenance, of which not to exceed \$403,055.34 shall be expended for personal service.....	821,675 34
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CURATIVE**STATE HOSPITALS — Continued****BROOKLYN STATE HOSPITAL**

For maintenance, of which not to exceed \$259,737.66 shall be expended for personal service..... 529,437 66

BUFFALO STATE HOSPITAL

For maintenance, of which not to exceed \$347,367 shall be expended for personal service..... 718,867 00

CENTRAL ISLIP STATE HOSPITAL

For maintenance, of which not to exceed \$724,198 shall be expended for personal service..... 1,596,098 00

GOWANDA STATE HOMEOPATHIC HOSPITAL

For maintenance, of which not to exceed \$217,284.99 shall be expended for personal service..... 410,084 99

HUDSON RIVER STATE HOSPITAL

For maintenance, of which not to exceed \$539,092.98 shall be expended for personal service..... 1,229,742 98

KINGS PARK STATE HOSPITAL

For maintenance, of which not to exceed \$648,518 shall be expended for personal service..... 1,482,018 00

MANHATTAN STATE HOSPITAL

For maintenance, of which not to exceed \$866,472.30 shall be expended for personal service..... 1,783,692 30

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL

For maintenance, of which not to exceed \$346,914 shall be expended for personal service..... 714,439 00

ROCHESTER STATE HOSPITAL

For maintenance, of which not to exceed \$275,388 shall be expended for personal service..... 541,288 00

ST. LAWRENCE STATE HOSPITAL

For maintenance, of which not to exceed \$340,873.67 shall be expended for personal service..... 661,673 67

UTICA STATE HOSPITAL

For maintenance, of which not to exceed \$305,704 shall be expended for personal service..... 600,929 00

UTICA STATE HOSPITAL — MARCY DIVISION

For maintenance, of which not to exceed \$143,628 shall be expended for personal service..... 297,678 00

WILLARD STATE HOSPITAL

For maintenance, of which not to exceed \$414,139.33 shall be expended for personal service..... 775,839 33

CHARITABLE**STATE BOARD OF CHARITIES****PERSONAL SERVICE**

Commissioners per diem compensation.....	2,500 00
Secretary	6,000 00
Assistant secretary and superintendent of inspection.....	3,750 00
Chief clerk and auditor.....	3,200 00
Executive hearing stenographer.....	2,200 00

CHARITABLE

STATE BOARD OF CHARITIES — *Continued*

Superintendent, 3 at \$3,650.....	10,950 00
Superintendent	2,700 00
Deputy superintendent	2,500 00
Supervisor of child welfare boards.....	2,500 00
Statistician	1,900 00
Clerk	1,850 00
Clerk	1,440 00
Clerk	1,140 00
Clerk	1,020 00
Clerk	900 00
Inspector	2,400 00
Inspector, not to exceed 24, at not to exceed \$2,100 each.....	40,650 00
Stenographer	1,680 00
Stenographer, 8 at \$1,260.....	10,080 00
Stenographer, 3 at \$1,200.....	3,600 00
Stenographer, 2 at \$1,080.....	2,160 00
Stenographer, 2 at \$1,020.....	2,040 00
Stenographer	900 00
Stenographer, 2 at \$840.....	1,680 00
Telephone operator	1,100 00
Temporary services	250 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	3,000 00
Departmental reports and bulletins.....	3,750 00
Equipment, supplies and materials.....	3,000 00
Traveling expenses	
Officials or employees (including traveling outside the state) ..	20,000 00
State, alien and non-resident poor.....	20,000 00
Communication	2,500 00
Fixed charges and contributions	
Maintenance of state and Indian poor in almshouses and out-	
door relief to Indian poor.....	16,500 00
Relief of civil war army nurses (chapter 595, Laws of 1913)	1,500 00
Rent	3,067 00

FISCAL SUPERVISOR OF STATE CHARITIES

PERSONAL SERVICE

Fiscal supervisor of state charities.....	6,000 00
Deputy fiscal supervisor	5,000 00
Private secretary	2,300 00
Accountant	2,280 00
Auditor of accounts	2,500 00
Bookkeeper	2,380 00
Estimate clerk	3,000 00
Assistant estimate clerk	2,600 00
Examiner of estimates and statistics.....	1,800 00
Index and record clerk.....	1,700 00
Record clerk and stenographer.....	1,680 00
Confidential clerk	1,200 00
Clerk	1,380 00
Clerk or stenographer	1,200 00
Inspector of records	1,800 00
Confidential inspector	3,250 00
Stenographer (also acts as secretary to purchasing committee)	2,100 00
Stenographer, 2 at \$1,400.....	2,800 00
Stenographer	1,320 00
Telephone operator	1,200 00
Temporary services	700 00

CHARITABLE

FISCAL SUPERVISOR OF STATE CHARITIES — *Continued*

MAINTENANCE AND OPERATION

Printing and advertising	
General	500 00
Departmental reports and bulletins.....	300 00
Equipment, supplies and materials.....	1,300 00
Traveling expenses (including traveling outside the state)....	3,000 00
Communication	1,600 00
Contingencies	50 00
Undistributed	
For the expenses, including personal service of extending the colony system in the State Schools for Mental Defectives as may be determined by the State Commission for Mental Defectives	10,000 00

PURCHASING COMMITTEE

MAINTENANCE AND OPERATION

Printing and advertising.....	850 00
Equipment, supplies and materials.....	150 00
Communication	200 00
Contingencies	50 00

STATE COMMISSION FOR MENTAL DEFECTIVES

PERSONAL SERVICE

Chairman	6,000 00
Commissioner, 2 at \$750.....	1,500 00
Psychiatrist	5,000 00
Secretary	3,000 00
Clerk	1,620 00
Clerk	1,200 00
Stenographer	1,320 00
Stenographer	1,200 00
Field agent, 5 at \$1,500.....	7,500 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	1,550 00
Departmental reports and bulletins.....	200 00
Equipment, supplies and materials.....	1,500 00
Traveling expenses, not more than \$500 of which may be used for traveling outside the state.....	4,500 00
Communication	800 00
Fixed charges and contributions.....	20 00
Rent	1,700 00
Repairs and alterations to building.....	100 00

STATE CHARITABLE INSTITUTIONS

The appropriations hereby made for the several state charitable institutions shall be expended by each institution in accordance with the provisions of a schedule to be filed for each institution by the Legislative Budget Committee with the State Comptroller, the Fiscal Supervisor of State Charities and the Civil Service Commission.

WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION

For maintenance, of which not to exceed \$54,876 shall be expended for personal service..... 104,126 00

NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA

For maintenance, of which not to exceed \$59,565 shall be expended for personal service..... 103,115 00

CHARITABLE

NEW YORK STATE SOLDIERS' AND SAILORS' HOME, BATH

For maintenance, of which not to exceed \$156,024 shall be expended for personal service..... 293,924 00

NEW YORK STATE REFORMATORY FOR WOMEN, BEDFORD HILLS

For maintenance, of which not to exceed \$79,916 shall be expended for personal service..... 136,516 00

NEW YORK STATE REFORMATORY, ELMIRA

For maintenance, of which not to exceed \$198,738.31 shall be expended for personal service..... 395,234 88

NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON

For maintenance, of which not to exceed \$111,552 shall be expended for personal service..... 221,702 00

STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY

For maintenance, of which not to exceed \$180,752 shall be expended for personal service..... 311,752 00

THOMAS INDIAN SCHOOL, IROQUOIS

For maintenance, of which not to exceed \$49,750 shall be expended for personal service..... 95,950 00

INSTITUTION FOR DEFECTIVE DELINQUENTS, NAPANOCH

For maintenance, of which not to exceed \$54,516 shall be expended for personal service..... 131,266 00

STATE SCHOOL FOR MENTAL DEFECTIVES, NEWARK

For maintenance, of which not to exceed* \$137,948 shall be expended for personal service..... 293,148 00

NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD

For maintenance, of which not to exceed \$45,591 shall be expended for personal service..... 89,091 00

NEW YORK HOUSE OF REFUGE AT RANDALL'S ISLAND

For maintenance, of which not to exceed \$137,266 shall be expended for personal service..... 265,366 00

NEW YORK STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS, RAY BROOK

For maintenance, of which not to exceed \$91,450 shall be expended for personal service..... 243,850 00

STATE SCHOOL FOR MENTAL DEFECTIVES, ROME

For maintenance, of which not to exceed \$247,336 shall be expended for personal service..... 539,336 00

CRAIG COLONY, SONYEA

For maintenance, of which not to exceed \$227,684 shall be expended for personal service..... 476,684 00

STATE SCHOOL FOR MENTAL DEFECTIVES, SYRACUSE

For maintenance, of which not to exceed \$112,372 shall be expended for personal service..... 210,872 00

* So in original. [Word misspelled.]

CHARITABLE

LETCHWORTH VILLAGE, THIELLS

For maintenance, of which not to exceed \$212,228 shall be expended for personal service..... 464,728 00

NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW

For maintenance, of which not to exceed \$86,552 shall be expended for personal service..... 151,852 00

PROTECTIVE

TRUSTEES OF PUBLIC BUILDINGS

PERSONAL SERVICE

Supervising auditor 1,000 00
Confidential agent 2,200 00
Stenographer 1,800 00

MAINTENANCE AND OPERATION

Printing and advertising..... 100 00
Traveling expenses 1,000 00
Communication 100 00
Rents
New York Telephone building..... 61,638 00
Drislane building 29,000 00
Journal building 9,000 00
Benson building 16,000 00
County building 12,000 00
Wooster building 17,500 00
Dolan building 2,500 00
DeGraaf building 28,000 00

DEPARTMENT OF PUBLIC BUILDINGS

PERSONAL SERVICE

Superintendent 5,000 00
Deputy superintendent 3,500 00
Chief clerk 2,580 00
Private secretary and cashier..... 2,300 00
Clerk 1,800 00
Bookkeeper 1,700 00
Messenger and weigher..... 1,800 00
Custodian of senate 1,320 00
Custodian of assembly 1,320 00
Telephone operator 960 00
Custodian of Kingston senate house..... 960 00
Gardener 1,450 00
Assistant gardener 1,200 00
Chief engineer 3,200 00
Assistant chief engineer 2,000 00
Electrical engineer 2,100 00
Assistant steam engineer, 7 at \$1,825..... 12,775 00
Head fireman, 5 at \$1,642.50..... 8,212 50
Fireman, 9 at \$1,551.25..... 13,961 25
Fireman, 2 at \$129.27 per month, 7 months..... 1,809 78
Chief carpenter 1,956 25
Carpenter, 2 at \$1,878..... 3,756 00
Stonecutter and tile setter 2,003 20
Plumber and gas fitter, 2 at \$2,003.20..... 4,006 40
Steamfitter 2,003 20
Steamfitter's helper 1,330 25
Machinist and locksmith..... 1,702 72
Machinist 1,702 72

PROTECTIVE

DEPARTMENT OF PUBLIC BUILDINGS — *Continued*

Roofer	1,878 00
Painter	1,752 80
Rigger	1,565 00
Upholsterer	1,408 50
Carpet layer and shade maker	1,408 50
Chief orderly	2,000 00
Orderly, 9 at \$1,140	10,260 00
Janitor, 2 at \$1,600	3,200 00
Janitor	1,200 00
Janitress, 2 at \$780	1,560 00
Captain of fire watch	1,450 00
Forewoman (capitol)	1,000 00
Forewoman (executive mansion)	780 00
Porter, 24 at \$900	21,600 00
Portress	840 00
Seamstress	900 00
Attendant	1,900 00
Attendant, 2 at \$1,320	2,640 00
Attendant, 3 at \$1,150	3,450 00
Elevatorman, 14 at \$1,500	21,000 00
Watchman, 2 at \$1,250	2,500 00
Watchman	1,020 00
Foreman of laborers, 2 at \$1,600	3,200 00
Laborer, 13 at \$1,200	15,600 00
Laborer	1,140 00
Laborer, 2 at \$95 per month, 7 months	1,330 00
Laborer, 38 at \$1,120	42,560 00
Laundress, 2 at \$660	1,320 00
Cleaner	660 00
Cleaner, 77 at \$600	46,200 00
Temporary services, including nightwatch and fire alarm system	3,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water	95,000 00
Printing and advertising	600 00
Equipment, supplies and materials	
Executive mansion	8,000 00
Other equipment and supplies	16,800 00
Communication	3,322 00
Fixed charges and contributions	
Pensions to veterans	4,022 00
Surety bonds and insurance premiums	30 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	12,000 00

CONSERVATION COMMISSION

PERSONAL SERVICE

Commissioner	8,000 00
Deputy commissioner	6,000 00
Secretary	4,000 00
Confidential secretary	2,250 00
Superintendent state forests	5,000 00
Chief protector	5,000 00
Assistant superintendent state forests	3,250 00
Deputy chief protector	3,250 00
Superintendent inland fisheries	3,500 00
Superintendent game bird farms	2,100 00
Supervisor	3,000 00
Chief land surveyor	2,500 00
Surveyor	2,000 00
Field superintendent	3,000 00

PROTECTIVE

CONSERVATION COMMISSION — *Continued*

Auditor and pay clerk	3,200 00
Auditor fire accounts	2,200 00
Assistant secretary and cashier	2,600 00
Cashier	2,200 00
Chief confidential agent	2,100 00
Confidential agent, 2 at \$2,000	4,000 00
Importation agent, 2 at \$1,800	3,600 00
Chief clerk	2,700 00
License clerk	2,400 00
Land clerk	2,300 00
Record and penalty clerk	2,100 00
Application clerk	1,900 00
Assistant to chief of publication	1,700 00
Messenger or clerk	1,500 00
Clerk	1,500 00
Clerk	1,200 00
Clerk	1,020 00
Junior clerk	720 00
Stenographer and clerk or purchasing agent	2,300 00
Stenographer and bookkeeper	1,800 00
Stenographer	1,800 00
Stenographer, 2 at \$1,500	3,000 00
Stenographer, 3 at \$1,320	3,960 00
Stenographer, 3 at \$1,300	3,900 00
Stenographer, 2 at \$1,200	2,400 00
Stenographer, 2 at \$1,140	2,280 00
Stenographer, 3 at \$1,080	3,240 00
Stenographer	960 00
Stenographer, 3 at \$900	2,700 00
Stenographer or clerk	900 00
Stenotype operator	1,200 00
Telephone operator	1,200 00
Senior assistant engineer	3,500 00
Forest surveyor or draftsman	1,800 00
Forester, 2 at \$2,400	4,800 00
Forester	2,000 00
Forester	1,700 00
Forester	1,600 00
Chief fire inspector, 2 at \$1,800	3,600 00
District forest rangers, 6 at \$1,900	11,400 00
Rangers and observers	90,000 00
Hatchery foreman, 10 at \$1,500	15,000 00
Nursery foreman	1,600 00
Nursery foreman	1,200 00
Nursery foreman, 3 at \$1,080	3,240 00
Engineer, Long Island, 2 at \$1,200	2,400 00
Engineer, Oneida Lake	1,200 00
Foreman, game bird farm, 2 at \$1,320	2,640 00
Foreman, game bird farm	1,200 00
Inspector, 10 at \$1,900	19,000 00
Game protectors, not to exceed 90	119,400 00
Inspector of automobiles	1,800 00
Chauffeur, 2 at \$1,500	3,000 00
Caretaker, Cuba reservation	660 00
Laborer, 3 at \$1,020	3,060 00
Laborer (game bird farm), 9 at \$1,000	9,000 00
Laborer	900 00
Temporary services	2,000 00
Wages, temporary	
Special protectors and assistants to game protectors	8,000 00
Hatchery laborers	60,000 00

PROTECTIVE

CONSERVATION COMMISSION—*Continued*

Game bird farm laborers.....	1,875 00
Personal service in reforestation.....	23,500 00
Personal service in fire protection.....	8,500 00
Personal service on forest surveys.....	6,500 00

MAINTENANCE AND OPERATION

Food.....	5,000 00
Fuel, light, power and water.....	7,000 00
Printing and advertising	
General	8,800 00
Laws	6,400 00
Licenses (hunters, netting, etc.)	6,500 00
Departmental reports and maps.....	5,000 00
Equipment, supplies and materials.....	74,500 00
Traveling expenses, not more than \$2,000 of which may be used for traveling outside the state.....	138,500 00
Communication	24,000 00
Fixed charges and contributions	
General, including justice fees and refunds.....	5,000 00
Retired veteran	501 87
Rent	13,200 00
Repairs and alterations to buildings and boats; repairs and replacements of mechanical equipment, including boats.....	8,000 00
Maintenance undistributed	
Investigation of the extent and character of and methods for eliminating the pollution of streams.....	8,000 00

WHITE PINE BLISTER RUST

For personal service and other expenses for the control of white pine blister rust and for payment for trees and cultivated currant and gooseberry bushes destroyed.....	50,000 00
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SARATOGA SPRINGS DIVISION

PERSONAL SERVICE

GENERAL FUND

Superintendent	5,000 00
Chemist	2,400 00
Draftsman and stenographer, acting as secretary.....	2,400 00
Laborers	3,000 00
Regular and temporary services	
Free service	
Cashiers	480 00
Laborers	982 00
Parks and roads	
Park superintendent	1,500 00
Truck chauffeur	1,200 00
Laborers and hired horses and vehicles.....	2,000 00
Well department	
Wellman	1,400 00
Wellman	1,200 00
Laborer	1,095 00

MAINTENANCE AND OPERATION

GENERAL FUND

Equipment, supplies and materials, including purchase or ex- change of automobiles at not to exceed \$1,000.....	4,375 00
Traveling expenses	500 00
Communication	500 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment (including roads, dams and bridges)	4,000 00

**PROTECTIVE
DEPARTMENT OF STATE POLICE
PERSONAL SERVICE**

Headquarters	
Superintendent	8,000 00
Deputy superintendent	3,500 00
Inspector	2,220 00
Chief clerk	2,100 00
Stenographer	1,600 00
Stenographer, 3 at \$1,500	4,500 00
Line officers	
Captain, 6 at \$2,520	15,120 00
Lieutenant, 6 at \$1,920	11,520 00
Enlisted personnel	
First sergeant, 6 at \$1,440	8,640 00
Sergeant, 24 at \$1,330	31,920 00
Corporal, 24 at \$1,165	27,960 00
Saddler, 6 at \$1,165	6,990 00
Blacksmith, 6 at \$1,165	6,990 00
Troop clerk, 6 at \$1,320	7,920 00
Troopers	247,670 00
Laborers, troop headquarters	
Steward, 6 at \$1,320	7,920 00
Laborer, 12 at \$660	7,920 00
Laborer, 6 at \$462	2,772 00
Temporary services, including medical care	11,000 00

MAINTENANCE AND OPERATION

Food	42,000 00
Fuel, light, power and water	15,000 00
Printing and advertising	
General	4,500 00
Departmental reports and bulletins	200 00
Equipment, supplies and materials, including \$15,000 for the purchase or exchange of motor vehicles	191,710 00
Traveling expenses, including care and feeding of horses, of which not more than \$2,000 may be available for traveling outside the state	339,500 00
Communication	15,000 00
Fixed charges and contributions, insurance	3,500 00
Rent	43,000 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment	5,000 00
Contingencies	
Mending shoes, boots, etc	2,000 00
School for troopers	1,500 00

LAND OFFICE

PERSONAL SERVICE

Land clerk in the office of the secretary of state acting as secretary to the commissioners of the land office	1,250 00
Appraiser, 2 at \$2,750	5,500 00

MAINTENANCE AND OPERATION

Printing and advertising	2,500 00
Traveling expenses	2,500 00
Contingencies	200 00

NEW YORK WATER POWER COMMISSION

PERSONAL SERVICE

Secretary	6,000 00
Counsel	5,000 00
Stenographer and filing clerk	1,320 00
Stenographer	1,200 00
Temporary employees and stenographic service for hearings	3,000 00

PROTECTIVE**NEW YORK WATER POWER COMMISSION — Continued****MAINTENANCE AND OPERATION**

Printing and advertising.....	2,000 00
Equipment, supplies and materials.....	600 00
Traveling expenses	1,000 00
Communication	500 00

WATER POWER COMMISSION**MAINTENANCE AND OPERATION**

For expenses of maintenance and operation including personal service	2,900 00
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NEW YORK MONUMENTS COMMISSION**PERSONAL SERVICE**

Compensation of commissioner, 3 at \$10 per diem.....	3,000 00
Secretary and stenographer.....	1,800 00
Laborer	840 00

MAINTENANCE AND OPERATION

Printing and advertising, including departmental reports and bulletins	130 00
Equipment, supplies and materials.....	115 00
Traveling expenses	450 00
Communication	200 00
Rent	800 00
Repairs to monuments erected by the monuments commission or regimental organizations of the state.....	500 00
Contingencies	
For dedication in the fall of 1922 of the General Barlow monument to be erected at Gettysburg and for illustrated report on monument and its dedication, with biographical sketch of General Barlow	8,000 00

ALLEGANY STATE PARK**MAINTENANCE AND OPERATION**

For expenses of maintenance and operation, including personal service	10,000 00
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AMERICAN SCENIC AND HISTORIC PRESERVATION SOCIETY**MAINTENANCE AND OPERATION**

Printing, departmental report.....	1,500 00
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BENNINGTON BATTLEFIELD**PERSONAL SERVICE**

Caretaker	275 00
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CLINTON HOUSE, POUGHKEEPSIE**MAINTENANCE AND OPERATION**

For expenses of maintenance and operation, including electric fixtures	500 00
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CROWN POINT RESERVATION**PERSONAL SERVICE**

Superintendent	900 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	600 00
Repairs to buildings, forts and grounds.....	1,000 00

ENFIELD FALLS RESERVATION**MAINTENANCE AND OPERATION**

For expenses of maintenance and operation.....	1,000 00
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PROTECTIVE

FIRE ISLAND STATE PARK

PERSONAL SERVICE

Superintendent	1,200 00
Regular and temporary services, including bathingmaster.....	1,125 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation other than personal service	1,000 00
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GRANT COTTAGE, MT. MCGREGOR

PERSONAL SERVICE

Custodian	1,100 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	300 00
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GUY PARK MANOR, AMSTERDAM

PERSONAL SERVICE

Caretaker	600 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	750 00
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GENERAL HERKIMER HOME, DANUBE

PERSONAL SERVICE

Caretaker	900 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation, including repairs...	1,500 00
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SIR WILLIAM JOHNSON MANSION, JOHNSTOWN

PERSONAL SERVICE

Superintendent	960 00
Temporary services	240 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, of which not less than \$600 shall be expended for repairs.....	1,200 00
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LAKE GEORGE BATTLEGROUND

PERSONAL SERVICE

Caretaker	275 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation, including general repairs	1,000 00
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LETCHWORTH PARK

PERSONAL SERVICE

Superintendent	1,600 00
Librarian	900 00
Temporary services	4,000 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, including repairs of which not less than \$2,000 shall be expended for roads and \$1,500 for painting and repairs to Glen Iris residence.....	5,840 00
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MONTCALM PARK, OSWEGO

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	1,000 00
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**PROTECTIVE
NEWTOWN BATTLEFIELD RESERVATION**

PERSONAL SERVICE	
Custodian	500 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation including repairs and improvement of road.....	1,900 00
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NIAGARA RESERVATION

PERSONAL SERVICE

Superintendent	3,600 00
Police superintendent	1,600 00
General foreman	1,440 00
Engineer, electrical	1,500 00
Assistant engineer, electrical	1,200 00
Patrolmen, ticket men, elevator conductors, janitors, scrub-women and temporary services at not more than \$100 per month each for patrolmen	39,200 00

MAINTENANCE AND OPERATION

Printing and advertising	
General	325 00
Departmental reports	200 00
Equipment, supplies and materials.....	6,000 00
Traveling expenses	500 00
Communication	400 00
Repairs and alterations to buildings; repairs and replacements of mechanical equipment including bridges and roads.....	2,000 00

PALISADES INTERSTATE PARK

PERSONAL SERVICE

Chief engineer	2,500 00
Assistant secretary	3,500 00
Chief clerk (general office).....	2,000 00
Chief clerk (Bear Mountain).....	1,620 00
Bookkeeper	1,900 00
Superintendent (Bear Mountain).....	2,000 00
Resident engineer, 3 at \$1,900.....	5,700 00
Rodman	1,080 00
General purchasing agent.....	2,000 00
Storekeeper	1,980 00
Assistant storekeeper	1,200 00
Stock clerk	1,000 00
Timekeeper	1,320 00
Stenographer, 2 at \$1,200.....	2,400 00
Superintendent	900 00
Master mechanic	1,950 00
Mechanic and plumber.....	1,800 00
Woods foreman	1,500 00
Foreman	1,380 00
Chief of police.....	1,440 00
Patrolman, regular, 4 at \$1,380.....	5,520 00
Patrolman, regular, 13 at \$1,080.....	14,040 00
Patrolman, regular, 3 at \$1,000.....	3,000 00
Head fire patrol.....	1,380 00
Fire patrol, 3 at \$1,080.....	3,240 00
Watchman, regular	840 00
Watchman, regular	720 00
Seaman, "Half Moon".....	840 00

PROTECTIVE

PALISADES INTERSTATE PARK — *Continued*

Telephone operator and typist.....	720 00
Patrolmen, 6 months, at \$540.....	4,860 00
Patrolmen, 6 months, at \$510.....	6,120 00
Patrolmen, 6 months, at \$480.....	3,840 00
Patrolman, Sundays and holidays, at \$4.....	720 00
Motorcycle patrols, 6 months, at \$480.....	960 00
Motorcycle patrols, 6 months, at \$450.....	900 00
Female comfort station attendants, 6 months, at \$300.....	600 00
Stationary engineer, 8 months, at \$640.....	640 00
Mechanics, labor and teaming.....	32,000 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	53,000 00
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PHILIPSE MANOR HALL, YONKERS

PERSONAL SERVICE

Superintendent	1,500 00
Janitor	800 00
Watchman	900 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	1,000 00
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SARATOGA MONUMENT

PERSONAL SERVICE

Keeper	660 00
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MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	100 00
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SCHUYLER MANSION

PERSONAL SERVICE

Keeper	900 00
Temporary services	100 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	1,000 00
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STONY POINT RESERVATION

PERSONAL SERVICE

Keeper	720 00
Labor	660 00
Temporary services	200 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	500 00
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TEMPLE HILL, NEWBURGH

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, including fence....	200 00
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JOHN BOYD THACHER PARK

PERSONAL SERVICE

Superintendent	1,200 00
Temporary services	500 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	750 00
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**PROTECTIVE
WASHINGTON'S HEADQUARTERS, NEWBURGH
PERSONAL SERVICE**

Curator of museum.....	1,000 00
Superintendent	1,080 00

MAINTENANCE AND OPERATION	
For expenses of maintenance and operation, including labor....	3,000 00

**WATKINS GLEN RESERVATION
PERSONAL SERVICE**

Superintendent	1,400 00
Caretaker, 2 at \$900.....	1,800 00
Night caretaker	450 00
Woman attendant, 2 at \$400.....	800 00

MAINTENANCE AND OPERATION	
For expenses of maintenance and operation.....	4,500 00

**STATE COMPTROLLER
INDIAN AFFAIRS**

Agent of the Onondagas.....	300 00
Agent of the Onondagas, Allegany and Cattaraugus reservations.....	150 00
Attorney of St. Regis.....	150 00
Attorney of Senecas.....	150 00
Attorney of Tonawanda band.....	150 00
Cayuga annuities	2,300 00
Onondaga annuities	2,430 00
St. Regis annuities	2,131 67
Seneca annuities	500 00
Purchase of salt, Onondagas.....	90 00
Medical aid and attendance, Onondagas.....	600 00
Medical aid and attendance, St. Regis.....	600 00
Premium on surety bond, agent of the Onondagas, Onondaga reservation	14 40
Premium on surety bond, agent of the Onondagas, Allegany and Cattaraugus reservations	7 50

**CONSTRUCTIVE
STATE ENGINEER AND SURVEYOR
GENERAL FUND**

PERSONAL SERVICE	
Personal service	94,700 00

On or before June 16, 1922, the state engineer and surveyor shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund, such segregation shall have their approval and no change shall be made in this tentative segregation during the fiscal year commencing July 1, 1922, without their approval.

MAINTENANCE AND OPERATION	
Traveling expenses state engineer in lieu of all expenses.....	3,000 00
Fixed charges and contributions	
Retired veterans	1,700 00
Topographic surveys	15,000 00
Hydrographic surveys	10,000 00
For other expenses of maintenance and operation including travel outside the state not to exceed \$500, and purchase or exchange of automobile or automobiles not to exceed \$3,000..	16,700 00

**CONSTRUCTIVE
DEPARTMENT OF ARCHITECTURE**

PERSONAL SERVICE

State architect	10,000 00
Executive deputy state architect.....	8,000 00
Assistant state architect.....	5,000 00
Deputy designated as chief engineer.....	4,250 00
Assistant deputy	3,500 00
Chief draftsman	3,600 00
Chief of institutional design.....	3,500 00
Chief structural engineer	3,000 00
Structural engineer	2,200 00
Expert specification writer.....	3,000 00
Specification writer	2,600 00
Architectural designer or draftsman.....	2,650 00
Architectural designer or draftsman.....	2,300 00
Architectural designer or draftsman.....	2,200 00
Architectural designer or draftsman, 2 at \$2,000.....	4,000 00
Architectural designer or draftsman, 2 at \$1,900.....	3,800 00
Architectural designer or draftsman, 2 at \$1,800.....	3,600 00
Architectural designer or draftsman, 2 at \$1,750.....	3,500 00
Architectural designer or draftsman.....	1,700 00
Architectural designer or draftsman, 2 at \$1,450.....	2,900 00
Engineer	3,000 00
Engineer, 2 at \$2,500.....	5,000 00
Engineer, 2 at \$2,350.....	4,700 00
Engineer	2,100 00
Engineer	2,000 00
Engineer.....	1,800 00
Engineering draftsman	2,000 00
Engineering draftsman	1,750 00
Engineering draftsman	1,500 00
Chief inspector	3,750 00
Superintendent of construction.....	2,950 00
Superintendent of construction.....	2,750 00
Superintendent of construction, 2 at \$2,600.....	5,200 00
Superintendent of construction, 5 at \$2,250.....	11,250 00
Superintendent of construction, 2 at \$2,150.....	4,300 00
Superintendent of construction, 2 at \$2,100.....	4,200 00
Superintendent of construction.....	1,950 00
Superintendent of construction.....	1,900 00
Chief of blue print and plan file bureau.....	2,000 00
Blue printer and photographer.....	1,500 00
Confidential inspector	1,750 00
Confidential assistant	2,500 00
Executive clerk	2,500 00
Chief clerk	2,100 00
Clerk.	1,450 00
Clerk.	1,200 00
Clerk.	900 00
Junior clerk	780 00
Junior clerk	660 00
Stenographer	1,600 00
Stenographer, 3 at \$1,500.....	4,500 00
Stenographer	1,320 00
Stenographer	1,200 00
Stenographer	1,000 00
Stenographer, 2 at \$900.....	1,800 00
Confidential assistant	1,600 00
Telephone operator	1,200 00
Page, 2 at \$540.....	1,080 00
Chauffeur	1,500 00
Temporary services	1,500 00

CONSTRUCTIVE

DEPARTMENT OF ARCHITECTURE — *Continued*

MAINTENANCE AND OPERATION

Printing and advertising	
General	6,500 00
Departmental report	250 00
Equipment, supplies and materials, not more than \$500 of which may be used for repairs to automobile and accessories	7,000 00
Traveling expenses, not more than \$500 of which may be used for traveling outside the state, of which not more than \$600 may be used for automobile storage, gasoline and oil	11,500 00
Communication	2,500 00
Fixed charges and contributions	
Retired veteran	1,000 00
Rent	1,200 00
Contingencies	300 00

DEPARTMENT OF HIGHWAYS

PERSONAL SERVICE

Commissioner	10,000 00
First deputy commissioner	6,000 00
Second deputy commissioner	5,000 00
Third deputy commissioner	5,000 00
Secretary	5,000 00
Chief auditor	6,000 00
Assistant secretary and contract clerk	3,000 00
Private secretary to commissioner	2,500 00
Confidential stenographer to commissioner	1,600 00
Assistant to second deputy	2,400 00
Assistant to third deputy	2,500 00
Division engineer, 9 at \$5,000	45,000 00
Superintendent of maintenance or senior highway engineer	3,000 00
Senior assistant engineer, general	3,600 00
Assistant engineer, grade 2	2,820 00
Assistant engineer, grade 1	1,840 00
District supervisor, 9 at \$2,100	18,900 00
Auditor highway accounts	2,750 00
Secretary to third deputy	1,800 00
Office accountant or clerk	1,900 00
Chief clerk	2,500 00
Clerk and stenographer	2,500 00
Estimate clerk or clerk	2,300 00
Appointment clerk or clerk	2,100 00
Bookkeeper or clerk	1,920 00
Bookkeeper or clerk	1,800 00
Financial clerk	1,800 00
Clerk or stenographer	1,500 00
Clerk	2,500 00
Chief audit clerk or clerk	2,400 00
Clerk	2,000 00
Clerk, 2 at \$1,900	3,800 00
Clerk, 8 at \$1,800	14,400 00
Clerk, 3 at \$1,740	5,220 00
Clerk, 4 at \$1,620	6,480 00
Clerk, 5 at \$1,500	7,500 00
Clerk or file clerk, 2 at \$1,200	2,400 00
Clerk, 4 at \$1,140	4,560 00
Clerk, 7 at \$900	6,300 00
Clerk, 2 at \$720	1,440 00
Clerk	800 00
Clerk or page, 2 at \$720	1,440 00
Stenographer or clerk, 11 at \$1,500	16,500 00

CONSTRUCTIVE**DEPARTMENT OF HIGHWAYS — Continued**

Stenographer or clerk.....	1,200 00
Stenographer or clerk.....	900 00
Stenographer or clerk.....	720 00
Telephone operator	1,500 00
Telephone operator	1,200 00
Chauffeur, 2 at \$1,600.....	3,200 00
Laborer, 5 at \$960.....	4,800 00
Charwoman, 4 at \$638.75.....	2,555 00
Temporary service	3,000 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	2,850 00
Printing and advertising, including departmental report.....	17,900 00
Equipment, supplies and materials.....	22,000 00
Traveling expenses, not more than \$2,000 of which may be used for traveling outside the state.....	29,000 00
Communication	14,000 00
Fixed charges and contributions	
Retired veterans	2,200 00
Surety bonds and auto insurance.....	2,200 00
Rent	4,700 00
Repairs and alterations to buildings; repairs and replacement of mechanical equipment.....	600 00
Contingencies	
Witness fees	4,000 00

**SUPERINTENDENT OF PUBLIC WORKS
BRIDGES OTHER THAN CANAL BRIDGES****PERSONAL SERVICE**

Superintendent of bridges.....	2,100 00
Chief operators, operators, assistant operators, guards, bridge tenders, oilers, carpenters and laborers on Hudson bridge, Con- gress street bridge, Drake's drawbridge, Minisceongo creek bridge	32,460 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation for Hudson bridge, Congress street bridge, Drake's drawbridge and Minisceongo creek bridge.....	68,500 00
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GENERAL**BANKING DEPARTMENT****PERSONAL SERVICE .**

Superintendent	10,000 00
First deputy superintendent.....	6,000 00
Second deputy superintendent.....	5,500 00
Third deputy superintendent.....	5,000 00
Fourth deputy superintendent.....	4,500 00
Confidential clerk and private secretary.....	3,500 00
Confidential stenographer	1,900 00
Confidential messenger	2,000 00
Bookkeeper	1,700 00
Bookkeeper	1,500 00
Clerk	1,600 00
Clerk, 2 at \$1,200.....	2,400 00
Filing clerk	1,600 00
File and index clerk.....	1,600 00
Junior clerk	1,000 00
Junior clerk	900 00

GENERAL

BANKING DEPARTMENT—*Continued*

Hearing stenographer	2,000 00
Stenographer	2,000 00
Stenographer and clerk.....	1,800 00
Stenographer	1,800 00
Stenographer and clerk.....	1,700 00
Stenographer and clerk.....	1,400 00
Stenographer	1,400 00
Stenographer	1,300 00
Stenographer	1,000 00
Typewriter copyist and clerk.....	1,300 00
Inspector, 4 at \$1,800.....	7,200 00
Bureau of bank examination	
For salaries and expenses of examiners in connection with the examination of corporations and private bankers pursuant to the banking law.....	340,000 00
Temporary service	500 00

MAINTENANCE AND OPERATION

Printing and advertising	
Printing and advertising.....	13,500 00
Departmental reports and bulletins.....	6,000 00
Equipment, supplies and materials.....	6,000 00
Traveling expenses, not more than \$1,000 of which may be used for traveling outside the state.....	2,500 00
Communication	9,500 00
Fixed charges and contributions	
Surety bonds and insurance premiums.....	125 00
Rental of safe deposit vaults, valuation of securities of savings banks, examination of securities held in trust by superintendent of banks, reports of financial agencies, et cetera.....	2,875 00
Rent	15,000 00

STATE INSURANCE DEPARTMENT

PERSONAL SERVICE

Superintendent	10,000 00
First deputy superintendent.....	7,000 00
Second deputy superintendent.....	6,500 00
Actuary	6,000 00
Actuary	5,000 00
Assistant actuary	3,600 00
Assistant actuary	3,000 00
Chief, 2 at \$5,500.....	11,000 00
Chief examiner	5,500 00
Examiner	3,500 00
Examiner	3,300 00
Examiner	3,250 00
Counsel	5,000 00
Confidential secretary	2,400 00
Chief clerk	3,200 00
General clerk	2,100 00
Correspondence clerk	1,800 00
Actuarial clerk, 3 at \$1,600.....	4,800 00
Actuarial clerk, 2 at \$1,500.....	3,000 00
Audit clerk, 5 at \$1,800.....	9,000 00
Audit clerk, 2 at \$1,500.....	3,000 00
Audit clerk, 2 at \$1,380.....	2,760 00
Audit clerk, bookkeeper or clerk, 3 at \$1,200.....	3,600 00
Clerk or card indexer.....	1,500 00
Filing clerk or stenographer.....	1,350 00
Filing clerk	1,300 00
Clerk	2,000 00
Clerk	1,620 00

GENERAL

STATE INSURANCE DEPARTMENT—*Continued*

Clerk, 2 at \$1,500.....	3,000 00
Clerk	1,380 00
Clerk	1,350 00
Clerk	1,300 00
Clerk	1,200 00
Clerk	1,140 00
Clerk or messenger.....	1,080 00
Clerk or stenographer, 5 at \$1,500.....	7,500 00
Clerk or stenographer, 5 at \$1,380.....	6,900 00
Clerk or stenographer, 4 at \$1,320.....	5,280 00
Clerk, stenographer or typewriter copyist.....	1,320 00
Clerk, stenographer or typewriter copyist.....	1,200 00
Clerk, stenographer or typewriter copyist.....	1,080 00
Clerk, stenographer or typewriter copyist, 3 at \$1,020.....	3,060 00
Clerk, stenographer or addressograph operator.....	1,020 00
Chief stenographer and managing clerk.....	2,400 00
Stenographer	2,000 00
Confidential stenographer	1,900 00
Stenographer or clerk, 2 at \$1,800.....	3,600 00
Stenographer or hearing stenographer.....	1,650 00
Hearing stenographer	1,650 00
Stenographer	1,650 00
Stenographer	1,600 00
Stenographer, 5 at \$1,500.....	7,500 00
Stenographer or law indexer.....	1,500 00
Stenographer, 3 at \$1,380.....	4,140 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer, 2 at \$1,080.....	2,160 00
Stenographer or clerk.....	1,600 00
Stenographer or clerk, 2 at \$1,500.....	3,000 00
Stenographer or clerk, 2 at \$1,380.....	2,760 00
Stenographer or clerk.....	1,320 00
Stenographer or clerk.....	1,260 00
Stenographer, clerk or addressograph operator, 2 at \$1,200.....	2,400 00
Stenographer or statistical clerk.....	1,500 00
Confidential investigator, 3 at \$1,900.....	5,700 00
Card indexer	1,500 00
Messenger or clerk, 2 at \$1,600.....	3,200 00
Bank messenger	1,500 00
Messenger	1,200 00
Auditor and actuary	6,000 00
Chief (liquidation bureau).....	8,500 00
Rating expert	3,000 00
Chief of bureau of accounts.....	4,250 00
Senior bookkeeper	3,000 00
Typewriter copyist or stenographer, 2 at \$1,650.....	3,300 00
Typewriter copyist	1,320 00
Typewriter copyist or messenger.....	900 00
Statistician	3,600 00
First assistant statistician.....	2,400 00
Second assistant statistician.....	1,800 00
Registrar	3,000 00
Chief, printing and purchasing bureau.....	2,800 00
Proofreader and clerk.....	2,100 00
Proofreader	1,500 00
Examiner	3,000 00
Examiner	2,600 00
Page or clerk.....	900 00
Clerk or telephone operator.....	1,080 00
Telephone operator.....	1,000 00
Temporary services	
Cleaning offices	720 00

GENERAL

STATE INSURANCE DEPARTMENT — *Continued*

MAINTENANCE AND OPERATION

Printing and advertising	
General	20,340 00
Departmental reports, including 4 volumes for office.....	30,000 00
Equipment, supplies and materials.....	14,085 00
Traveling expenses	
Superintendent (including expense of traveling outside the state)	2,500 00
First deputy superintendent, not more than \$600 of which may be used for traveling outside the state.....	1,000 00
Employees, not more than \$1,000 of which may be used for traveling outside the state.....	1,500 00
Communication	10,000 00
Fixed charges and contributions	
Surety bonds and premiums.....	62 50
Pensions	1,600 00
Appraisal of securities.....	3,500 00
Rents, offices in New York city.....	9,500 00
Contingencies	
Filing fees, notaries, etc.....	32 50

REFUND ACCOUNT

PERSONAL SERVICE

The following appropriations to be collected and refunded to the treasury by the corporations under examination when disbursements therefrom are in consequence of services and expenses had or in connection with such examinations, excepting in the discretion of the superintendent of insurance, fraternal beneficiary orders, co-operative fire insurance corporations or associations examined more frequently than required by statute:

For payment of services of examiners, as follows:

Chief examiner, 3 at \$6,000.....	18,000 00
Chief examiner	5,500 00
Examiner	4,000 00
Examiner, 5 at \$3,750.....	18,750 00
Examiner, 5 at \$3,500.....	17,500 00
Examiner, 5 at \$3,250.....	16,250 00
Examiner, 2 at \$3,100.....	6,200 00
Examiner, 5 at \$3,000.....	15,000 00
Examiner, 7 at \$2,800.....	19,600 00
Examiner, 3 at \$2,500.....	7,500 00
Examiner, 6 at \$2,400.....	14,400 00
Examiner, 2 at \$2,250.....	4,500 00
Examiner, 5 at \$2,100.....	10,500 00

MAINTENANCE AND OPERATION

For payment for appraisals, title searches, fees of counsel and expenses of department appraisers in the state, for appraisals and fees of examiners designated in other states, for expenses of counsel and for expenses of examiners in connection with examination of insurance companies.....	25,000 00
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STATE COMPTROLLER

MAINTENANCE AND OPERATION

Fixed charges and contributions	
County treasurers for payment of taxes on public lands.....	300,000 00
State compensation insurance.....	125,000 00
Redemption of lands.....	5,000 00

GENERAL

STATE INSURANCE DEPARTMENT — *Continued*

Clerk, 2 at \$1,500.....	3,000 00
Clerk	1,380 00
Clerk	1,350 00
Clerk	1,300 00
Clerk	1,200 00
Clerk	1,140 00
Clerk or messenger.....	1,080 00
Clerk or stenographer, 5 at \$1,500.....	7,500 00
Clerk or stenographer, 5 at \$1,380.....	6,900 00
Clerk or stenographer, 4 at \$1,320.....	5,280 00
Clerk, stenographer or typewriter copyist.....	1,320 00
Clerk, stenographer or typewriter copyist.....	1,200 00
Clerk, stenographer or typewriter copyist.....	1,080 00
Clerk, stenographer or typewriter copyist, 3 at \$1,020.....	3,060 00
Clerk, stenographer or addressograph operator.....	1,020 00
Chief stenographer and managing clerk.....	2,400 00
Stenographer	2,000 00
Confidential stenographer	1,900 00
Stenographer or clerk, 2 at \$1,800.....	3,600 00
Stenographer or hearing stenographer.....	1,650 00
Hearing stenographer	1,650 00
Stenographer	1,650 00
Stenographer	1,600 00
Stenographer, 5 at \$1,500.....	7,500 00
Stenographer or law indexer.....	1,500 00
Stenographer, 3 at \$1,380.....	4,140 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer, 2 at \$1,080.....	2,160 00
Stenographer or clerk.....	1,600 00
Stenographer or clerk, 2 at \$1,500.....	3,000 00
Stenographer or clerk, 2 at \$1,380.....	2,760 00
Stenographer or clerk.....	1,320 00
Stenographer or clerk.....	1,260 00
Stenographer, clerk or addressograph operator, 2 at \$1,200.....	2,400 00
Stenographer or statistical clerk.....	1,500 00
Confidential investigator, 3 at \$1,900.....	5,700 00
Card indexer	1,500 00
Messenger or clerk, 2 at \$1,600.....	3,200 00
Bank messenger	1,500 00
Messenger	1,200 00
Auditor and actuary	6,000 00
Chief (liquidation bureau).....	8,500 00
Rating expert	3,000 00
Chief of bureau of accounts.....	4,250 00
Senior bookkeeper	3,000 00
Typewriter copyist or stenographer, 2 at \$1,650.....	3,300 00
Typewriter copyist	1,320 00
Typewriter copyist or messenger.....	900 00
Statistician	3,600 00
First assistant statistician.....	2,400 00
Second assistant statistician.....	1,800 00
Registrar	3,000 00
Chief, printing and purchasing bureau.....	2,800 00
Proofreader and clerk.....	2,100 00
Proofreader	1,500 00
Examiner	3,000 00
Examiner	2,600 00
Page or clerk.....	900 00
Clerk or telephone operator.....	1,080 00
Telephone operator.....	1,000 00
Temporary services	
Cleaning offices	720 00

GENERAL

STATE INSURANCE DEPARTMENT—*Continued*

MAINTENANCE AND OPERATION

Printing and advertising	
General	20,340 00
Departmental reports, including 4 volumes for office.....	30,000 00
Equipment, supplies and materials.....	14,085 00
Traveling expenses	
Superintendent (including expense of traveling outside the state)	2,500 00
First deputy superintendent, not more than \$600 of which may be used for traveling outside the state.....	1,000 00
Employees, not more than \$1,000 of which may be used for traveling outside the state.....	1,500 00
Communication	10,000 00
Fixed charges and contributions	
Surety bonds and premiums.....	62 50
Pensions	1,600 00
Appraisal of securities.....	3,500 00
Rents, offices in New York city.....	9,500 00
Contingencies	
Filing fees, notaries, etc.....	32 50

REFUND ACCOUNT

PERSONAL SERVICE

The following appropriations to be collected and refunded to the treasury by the corporations under examination when disbursements therefrom are in consequence of services and expenses had or in connection with such examinations, excepting in the discretion of the superintendent of insurance, fraternal beneficiary orders, co-operative fire insurance corporations or associations examined more frequently than required by statute:

For payment of services of examiners, as follows:

Chief examiner, 3 at \$6,000.....	18,000 00
Chief examiner	5,500 00
Examiner	4,000 00
Examiner, 5 at \$3,750.....	18,750 00
Examiner, 5 at \$3,500.....	17,500 00
Examiner, 5 at \$3,250.....	16,250 00
Examiner, 2 at \$3,100.....	6,200 00
Examiner, 5 at \$3,000.....	15,000 00
Examiner, 7 at \$2,800.....	19,600 00
Examiner, 3 at \$2,500.....	7,500 00
Examiner, 6 at \$2,400.....	14,400 00
Examiner, 2 at \$2,250.....	4,500 00
Examiner, 5 at \$2,100.....	10,500 00

MAINTENANCE AND OPERATION

For payment for appraisals, title searches, fees of counsel and expenses of department appraisers in the state, for appraisals and fees of examiners designated in other states, for expenses of counsel and for expenses of examiners in connection with examination of insurance companies.....	25,000 00
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STATE COMPTROLLER

MAINTENANCE AND OPERATION

Fixed charges and contributions	
County treasurers for payment of taxes on public lands.....	300,000 00
State compensation insurance.....	125,000 00
Redemption of lands.....	5,000 00

CANAL FUND
STATE COMPTROLLER
BUREAU OF CANAL AFFAIRS

PERSONAL SERVICE

Division chief	4,000 00
Clerk	3,000 00
Clerk	2,500 00
Stenographer	2,000 00
Transfer agent	1,400 00
Laborer	909 00

MAINTENANCE AND OPERATION

Printing	1,500 00
Equipment, supplies and material.....	350 00
Traveling expenses	100 00
Fixed charges and contributions	
Maintenance of transfer office for canal bonds.....	6,000 00

ATTORNEY GENERAL

PERSONAL SERVICE

Deputy in charge, Court of Claims, 5 at \$6,000.....	30,000 00
Deputy	5,500 00
Deputy	5,000 00
Deputy	4,500 00
Deputy, 2 at \$4,200.....	8,400 00
Deputy, title bureau, 2 at \$3,800.....	7,600 00
Examiners of titles, 3 at \$3,200.....	9,600 00
Examiner of titles, searchers* and maps.....	3,200 00
Stenographer, 3 at \$1,600.....	4,800 00

STATE ENGINEER AND SURVEYOR

PERSONAL SERVICE

Personal service	230,900 00
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MAINTENANCE AND OPERATION

Maintenance and operation, including travel outside the state not to exceed \$500.....	28,000 00
On or before June 15, 1922, the state engineer and surveyor shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a tentative segregation of the amount hereby appropriated. Before any moneys shall be paid out of this fund such segregation shall have their approval and no change shall be made in this tentative segregation during the fiscal year commencing July 1, 1922, without their approval.	

SUPERINTENDENT OF PUBLIC WORKS

PERSONAL SERVICE

Superintendent of public works.....	10,000 00
Deputy superintendent.....	6,500 00
Assistant to deputy.....	5,000 00
Private secretary	3,000 00
Confidential stenographer	1,800 00
Chief of bureau	4,800 00
Chief accountant and auditor.....	4,800 00
Special examiner and appraiser and claims agent.....	6,000 00
Publicity agent	6,000 00
Advisory engineer	6,000 00

* So in original. [Should be "searches."]

CANAL FUND

SUPERINTENDENT OF PUBLIC WORKS — *Continued*

Canal traffic agent.....	4,750 00
General inspector	4,300 00
Chief inspector, mechanical structures.....	4,000 00
Assistant superintendent, 3 at \$3,500.....	10,500 00
Superintendent of terminals.....	5,000 00
Accountant	2,750 00
Division clerk, 3 at \$2,500.....	7,500 00
Assistant division clerk.....	1,750 00
Clerk, filing	2,200 00
Clerk, voucher and record.....	2,100 00
Filing clerk	2,100 00
Clerk, accounts and inventories.....	1,800 00
Voucher and property clerk, 3 at \$1,800.....	5,400 00
Clerk	2,200 00
Clerk	2,000 00
Clerk	1,800 00
Clerk	1,750 00
Clerk	1,200 00
Clerk	1,300 00
Clerk, 2 at \$960.....	1,920 00
Stenographer and clerk, 2 at \$1,750.....	3,500 00
Stenographer and clerk.....	1,500 00
Stenographer	1,750 00
Stenographer	1,600 00
Stenographer or clerk, 2 at \$1,500.....	3,000 00
Stenographer	1,260 00
Stenographer, 2 at \$1,200.....	2,400 00
Stenographer	1,140 00
Special agent, 2 at \$1,900.....	3,800 00
Telephone operator or junior clerk.....	1,020 00
Telephone operator	520 00
Disbursing clerk, 12 at \$1,600.....	19,200 00
Collector of canal statistics, 9 months at \$140.....	1,260 00
Collector of canal statistics, 9 months at \$125.....	1,125 00
Collector of canal statistics, 9 months at \$110.....	990 00
Collector of canal statistics, 9 months at \$100.....	900 00
Clerk to collector, 9 months at \$100.....	900 00
Supervisor of reservoirs, supervisor of terminal equipment, inspectors (division foremen), inspector (navigation aids), inspector (mechanical structures), inspector (movable dams), division foremen, general foremen, foremen, shop foremen, electricians, supervisor of bridges, supervisor of electric and hydraulic bridges, supervisor of dredges and fleet commander..	46,730 00
Assistant division superintendents, harbor masters, chief lock operators, lock operators, relief lock operators, lock helpers, buoy light tenders, guard gate tenders, lock tenders, bridge tenders, patrolmen, feeder tenders, reservoir tenders, traffic regulators, captains, engineers, firemen, deckhands and cooks.	671,627 40
Field force (mechanics, labor and watchmen).....	171,468 10
Section maintenance force.....	153,000 00
Bureau of claims and appraisals.....	24,300 00
Prize lock competition for the barge canal lock force winning "prize lock" competition.....	327 00
Temporary services intended to cover temporary clerk hire.....	3,500 00

MAINTENANCE AND OPERATION

For expenses of maintenance and operation.....	418,500 00
Towing.	25,000 00

CAPITAL FUNDS**PRISON CAPITAL FUND****AUBURN PRISON****PERSONAL SERVICE**

Industries, manufacturing	
Superintendent of industries, Auburn prison's portion.....	2,500 00
Deputy superintendent of industries.....	4,500 00
Assistant to deputy superintendent of industries.....	2,400 00
Confidential clerk and stenographer.....	825 00
(Also receives \$825 from general fund.)	
Bookkeeper	800 00
(Also receives \$800 from general fund.)	
Chief engineer	1,665 00
(Also receives \$135 from general fund.)	
Assistant engineer	750 00
(Also receives \$750 from general fund.)	
Chauffeur and mechanic.....	1,200 00
Foreman	2,300 00
Foreman	2,100 00
Foreman	2,000 00
Foreman	1,850 00
Foreman, 14 at \$1,500.....	21,000 00
Guards (not to exceed 10).....	15,000 00
Laborer, 2 at \$960.....	1,920 00
Firemen, 2 at \$400.....	800 00
(Also receive \$400 each from general fund.)	
Supervisor of farm industries or farm superintendent, including house, fuel and products from prison farm for self and family	1,512 00
Chief of bureau (\$4,000) Auburn prison portion.....	1,333 33
Collection clerk (\$2,760) Auburn prison portion.....	920 00
Stenographer (\$1,380) Auburn prison portion.....	460 00
Stenographer (\$1,260) Auburn prison portion.....	420 00

STATE PRISON FOR WOMEN, AUBURN**PERSONAL SERVICE**

General supervision of prisoners	
Attendant	410 00
(Also receives \$190 from general fund.)	

CLINTON PRISON**PERSONAL SERVICE**

Industries, manufacturing	
Superintendent of industries, Clinton prison's portion.....	2,500 00
Deputy superintendent of industries.....	4,500 00
Chauffeur and mechanic.....	600 00
(Also receives \$600 from general fund.)	
Guard in charge of industrial office.....	2,100 00
Chief engineer	900 00
(Also receives \$900 from general fund.)	
Fireman, 3 at \$600.....	1,800 00
(Also receive \$600 each from general fund.)	
Industrial inspector.....	1,600 00
Shirt and clothing industry	
Foreman	1,800 00
Guard	1,600 00
Tinware industry	
Foreman	1,800 00
Guard	1,600 00

CAPITAL FUNDS

CLINTON PRISON — *Continued*

Yarn and cloth industry	
Foreman	1,900 00
Foreman	1,800 00
Guard and dyer	1,900 00
Guard, 3 at \$1,600	4,800 00
Machinist	1,500 00
Wood and lumber industry	
Assistant foreman	1,400 00
Guard	1,800 00
Watchman	1,000 00
Chief of bureau (\$4,000) Clinton prison portion	1,333 33
Collection clerk (\$2,760) Clinton prison portion	920 00
Stenographer (\$1,380) Clinton prison portion	460 00
Stenographer (\$1,260) Clinton prison portion	420 00

GREAT MEADOW PRISON

PERSONAL SERVICE

Supervisor of farm industries or farm superintendent, including house, fuel and products from prison farm for self and family.	1,512 00
Rock foreman	1,200 00

SING SING PRISON

PERSONAL SERVICE

Industries, manufacturing	
Superintendent of industries, Sing Sing prison's portion	2,500 00
Deputy superintendent of industries	4,500 00
Industrial inspector	1,900 00
Chief clerk	530 00
(Also receives \$1,270 from general fund.)	
Stenographer and document clerk	350 00
(Also receives \$2,050 from general fund.)	
Confidential clerk	360 00
(Also receives \$1,290 from general fund.)	
Clerk or bookkeeper (comptroller)	1,500 00
Foreman, shoe department	1,900 00
Instructor, shoe department	1,700 00
Foreman, brush and mat department	1,900 00
Foreman, cart and wagon	1,900 00
Foreman, knitting department	2,500 00
Assistant foreman, knitting department	1,700 00
Assistant foreman, knitting department	1,500 00
Blacksmith, cart and wagon	1,500 00
Dyer, knitting department; guard, mat department	2,000 00
Guard, shipping department	1,600 00
Guard	700 00
(Also receives \$900 from general fund.)	
Chief engineer	1,000 00
(Also receives \$900 from general fund.)	
Assistant engineer, 2 at \$750	1,500 00
(Also receive \$750 each from general fund.)	
Fireman, 2 at \$600	1,200 00
(Also receive \$600 each from general fund.)	
Chief of bureau (\$4,000), Sing Sing prison portion	1,333 33
Collection clerk (\$2,760), Sing Sing prison portion	920 00
Stenographer (\$1,380), Sing Sing prison portion	460 00
Stenographer (\$1,260), Sing Sing prison portion	420 00
Supervisor of farm industries or foreman farmer, including house, fuel and products from prison farm for self and family	1,512 00

CAPITAL FUNDS
STATE HOSPITAL MANUFACTURING DEPARTMENTS
ROCHESTER STATE HOSPITAL

PERSONAL SERVICE

Foreman	1,500 00
Truckman	981 60
Special attendant	840 00

MAINTENANCE AND OPERATION

Fixed charges and contributions, commutation.....	1,152 00
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UTICA STATE HOSPITAL

PERSONAL SERVICE

Foreman	2,160 00
Printer, 4 at \$1,296.....	5,184 00
Special attendant, press feeder.....	840 00
Ruler	1,296 00
Binder	1,296 00
Special attendant, binder's helper, 2 at \$840.....	1,680 00
Superintendent of knitting plant.....	1,200 00
Special attendant, knitter, 5 at \$840.....	4,200 00
Coffee roaster	1,260 00
Special attendant, 3 at \$840.....	2,520 00
Stenographer	1,200 00
Stenographer	1,168 00
Bookkeeper	1,512 00
Truckman	900 00
Temporary services	1,500 00
Temporary services for printing and binding.....	1,000 00

MAINTENANCE AND OPERATION

Fixed charges and contributions, commutation.....	7,848 00
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CONSERVATION COMMISSION, SARATOGA SPRINGS DIVISION

PERSONAL SERVICE

Head bookkeeper	2,000 00
Stenographer.....	1,500 00
Stenographer.....	840 00
Chauffeur	1,300 00
Regular and temporary services	
Bottling works	
Superintendent	1,400 00
Laborers	10,000 00
Drink hall	
Cashiers	900 00
Laborers	6,000 00
Bath house department	
Superintendents	3,000 00
Cashiers	1,500 00
Swimming instructors	210 00
Engineer	1,500 00
Engineer	1,200 00
Attendants and laborers.....	30,000 00

MILITARY RECORD FUND

Hall of military records	
Keeper	1,100 00
Janitor	1,000 00

PART II

Section 2. The several sums specified in this section, or so much thereof as shall be sufficient to accomplish, in full, the purposes designated by the appropriation, shall be immediately available for payment when this act becomes a law and shall be paid by the treasurer on the warrant of the comptroller, to the persons and for the purposes indicated in this act, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrant shall be issued except in the case of salaries until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers prescribed as required by section twelve of the state finance law. Whenever an appropriation shall have been provided otherwise, the sum herein directed to be paid shall not be considered as an addition to such other appropriation unless it shall be expressly so declared in this act.

Sums immediately available.

Audit.

Appropriation not additional when otherwise provided.

ADMINISTRATIVE**SECRETARY OF STATE****MAINTENANCE AND OPERATION**

Printing and advertising	
Session laws and slips prior to July 1, 1921.....	39,378 00
Election	44,644 24
Publishing general laws.....	331,978 92
Maintenance undistributed	
For the installation of filing system, including personal service	35,000 00

STATE COMPTROLLER**MAINTENANCE AND OPERATION**

Fixed charges and contributions	
Pension accumulation fund and for pension payments as provided by chapter 741, laws of 1920.....	260,477 00
Retired veteran prior to July 1, 1921.....	284 03
Rent	525 00
Contingencies	2,181 70

STATE TREASURER**MAINTENANCE AND OPERATION**

Printing and advertising.....	500 00
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ATTORNEY-GENERAL**MAINTENANCE AND OPERATION**

Printing and advertising.....	3,500 00
Equipment, supplies and materials, including liabilities incurred prior to July 1, 1921.....	1,250 40
Traveling expenses, including liabilities incurred prior to July 1, 1921	341 57
Communication, including liabilities incurred prior to July 1, 1921	2,200 00

COUNTY OF SARATOGA

For refund to the county of Saratoga, under the provisions of the constitution of money advanced by it in connection with the investigation ordered by the governor as to violations of law against gambling, misconduct or malfeasance in office and other misconduct in the administration of any of the public officials of Saratoga county, payable on the approval of the attorney-general	20,000 00
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ADMINISTRATIVE**UNION FREE SCHOOL DISTRICT NO. 2—BATAVIA**

For payment to the union free school district No. 2 of Batavia for costs, disbursements, and fees in defense of the certiorari proceedings instituted against the board of education of said district, payable on the approval of the attorney-general....	2,610 84
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CIVIL SERVICE COMMISSION**MAINTENANCE AND OPERATION**

Equipment, supplies and materials, including liabilities incurred prior to July 1, 1921.....	513 00
Traveling expense, prior to July 1, 1921.....	76 34

LEGISLATIVE**THE SENATE****CONTESTED ELECTION CASES**

For payment to George H. Taylor, balance of salary and expenses in connection with contest Dunnigan vs. Taylor.....	1,100 00
For payment to Abraham Katlin, for counsel fees and expenses in connection with contest Carroll vs. Katlin.....	1,200 00

SENATE AND ASSEMBLY JOINTLY**MAINTENANCE AND OPERATION**

Printing	
Additional copies by resolution.....	100,000 00
Senate and assembly journals, including liabilities incurred prior to July 1, 1921.....	4,829 31
Miscellaneous documents, messages and reports of standing committees	10,000 00
Contingencies:	
Legislative contingent fund, payable only on audit of the comptroller, after approval by the chairman of the committee or the committee, the speaker of the Assembly, and the president pro tempore of the Senate.....	250,000 00

JOINT COMMITTEE ON THE SIMPLIFICATION OF CIVIL PRACTICE

For expenses of the joint committee on the simplification of civil practice	7,500 00
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SPEAKER AND PRESIDENT OF SENATE**CLERICAL SERVICES**

For deficiency in appropriation for the speaker of the assembly and president of the senate for extra stenographic and clerical services, \$6,000, of which \$3,000 shall be available for each such official	6,000 00
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MAJORITY LEADER OF SENATE**CLERICAL SERVICES**

For deficiency in appropriation for the leader of the majority of the senate for stenographic and clerical services.....	1,000 00
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MINORITY LEADER OF SENATE**CLERICAL SERVICES**

For deficiency in appropriation for the leader of the minority of the senate for stenographic and clerical services.....	1,000 00
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LEGISLATIVE**MAJORITY LEADER AND MINORITY LEADER OF ASSEMBLY
CLERICAL SERVICES**

For deficiency in appropriation for the leader of the majority and the leader of the minority of the assembly for extra stenographic and clerical services, \$2,000 each..... 4,000 00

**SPEAKER AND PRESIDENT OF SENATE
EXPENSES**

For deficiency in appropriation for the speaker of the assembly and president of the senate, for their actual and necessary traveling and other expenses in the performance of their duties on the several boards of which they are members, \$3,000 each, in lieu and in full of all such expenses..... 6,000 00

MAJORITY LEADER OF SENATE

For deficiency in the appropriation for the majority leader of the senate for his actual and necessary traveling and other expenses in the performance of his duties on the several boards, commissions and committees of which he is a member, in lieu and in full of all such expenses..... 3,000 00

MINORITY LEADER OF SENATE

For deficiency in the appropriation for the minority leader of the senate for his actual and necessary traveling and other expenses in the performance of his duties on the several boards, commissions and committees of which he is a member, in lieu and in full of all such expenses..... 3,000 00

MAJORITY AND MINORITY LEADERS OF THE ASSEMBLY

For deficiency in the appropriation for the majority and the minority leaders of the assembly for their actual and necessary traveling and other expenses in the performance of their duties on the several boards, commissions and committees of which they are members, in lieu and in full of all such expenses, \$2,500 each 5,000 00

**CHAIRMAN OF SENATE FINANCE COMMITTEE AND CHAIRMAN OF
ASSEMBLY WAYS AND MEANS COMMITTEE**

For deficiency in appropriation for the chairman of the senate finance committee and the chairman of the assembly ways and means committee for their actual and necessary traveling expenses in visiting and inspecting state institutions and departments outside the city of Albany as members of the board of estimate and control and hospital development commission of which they are members, \$3,500 each in lieu and in full of all such expenses..... 7,000 00

**BILL DRAFTING COMMISSION
PERSONAL SERVICE**

Commissioner 500 00

JUDICIAL**COURT OF APPEALS****MARY E. CHASE**

For payment to Mary E. Chase, the widow of the late Emory A. Chase, justice of the court of appeals, compensation which would have been earned by him had he continued to live to the close of the calendar year 1921..... 4,166 67

**JUDICIAL
SUPREME COURT
LAW LIBRARIES**

Third district Kingston, prior to July 1, 1921.....	126 75
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**APPELLATE DIVISION
PERSONAL SERVICE**

Third department Stenographers to justices.....	1,503 22
Fourth department Stenographers to justices.....	2,093 28

LAW LIBRARIES

Fourth department Rochester	810 00
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**COURT OF CLAIMS
MAINTENANCE AND OPERATION**

Printing and advertising.....	200 00
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JUDICIARY CONSTITUTIONAL CONVENTION

For expenses of maintenance and operation, including personal service	2,949 12
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REGULATIVE

**LABOR DEPARTMENT
PERSONAL SERVICE**

For personal service in compensation bureau.....	6,400 00
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MAINTENANCE AND OPERATION

Fixed charges and contributions prior to July 1, 1921.....	62 11
Rent	3,000 00

**PUBLIC SERVICE COMMISSION
MAINTENANCE AND OPERATION**

Maintenance undistributed Personal service and other expenses in the matter of investigations of the rates, charges, rules and regulations, standards and service of gas and electricity and other commodities..	65,000 00
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JOSEPH M. MEATYARD

For payment to Joseph M. Meatyard for services and expenses in proceedings instituted by the public service commission, second district, against Freas B. Snyder et al., in the supreme court of Onondaga county	1,006 02
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**STATE TAX DEPARTMENT
MAINTENANCE AND OPERATION**

For the expenses of maintenance and operation, including liabilities incurred prior to July 1, 1921, and including refund to county treasurers of \$56.39; including not to exceed \$4,000 for refunds of canceled stock transfer stamps; not to exceed \$2,200 for refunds under the highway law, with respect to motor vehicles; not to exceed \$450 for premiums on surety bonds of county clerks in the administration of the highway law with respect to motor vehicles; not to exceed \$1,350 for premiums on surety bonds of officials and employees of the department; not to exceed \$2,500 for auditing accounts and fiscal affairs of the New York city office of the motor vehicle bureau; not to exceed \$2,000 for traveling outside of the state	185,484 44
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REGULATIVE

For payment to Lafayette B. Gleason for services rendered under designation by the state comptroller in connection with the estate of Gerry, nonresident, prior to February first, nineteen hundred and twenty-one	5,811 12
For payment to Barney S. O'Neill, transfer tax attorney in St. Lawrence county, balance of fees for services rendered prior to July first, nineteen hundred and twenty-one, in various estates under designation by the state comptroller.....	377 92
For payment to county treasurer of Cortland county for amount of fees paid by him to Lewis M. Martin, transfer tax attorney in Cortland county, for services rendered during the quarter ended June thirtieth, nineteen hundred and twenty-one, under designation by the state comptroller, the amount of which fees the said county treasurer omitted to deduct from the funds then in his custody	309 41

STATE RACING COMMISSION

For the expenses of the state racing commission prior to June thirtieth, nineteen hundred and twenty-two, to be paid out of the moneys heretofore or hereafter collected by the state comptroller	405 00
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STATE INSTITUTE FOR THE STUDY OF MALIGNANT DISEASE**PERSONAL SERVICE**

Temporary services	1,200 00
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MAINTENANCE AND OPERATION

Fuel, light, power and water.....	700 00
Printing, including departmental reports.....	175 00
Equipment, supplies and materials, new X-ray and physical equipment	9,962 00
Communication	250 00

STATE BOARD OF EMBALMING EXAMINERS**MAINTENANCE AND OPERATION**

Printing, prior to July 1, 1921.....	24 66
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STATE ATHLETIC COMMISSION

For the expenses of maintenance and operation, including personal service	13,490 00
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MOTION PICTURE COMMISSION

For expenses of maintenance and operation, including personal service	10,000 00
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EDUCATIONAL**EDUCATION DEPARTMENT****PERSONAL SERVICE**

Temporary services, including liabilities incurred prior to July first, nineteen hundred and twenty-one.....	1,090 00
Honorariums to members of examination committee.....	2,500 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	200 00
Equipment, supplies and materials	
For laws of New York state and city from the Russell Benedict collection	7,500 00

EDUCATIONAL**EDUCATION DEPARTMENT — Continued**

Traveling expenses, prior to July 1, 1921.....	347 14
Fixed charges and contributions	
Support of common schools.....	1,100,000 00
Tuition for Indian children.....	400 00
Grants to libraries.....	3,200 00
Teachers' annuities	12,000 00
Repairs and alterations to buildings; repairs and replacement of mechanical equipment, including school buildings on Indian reservations	1,500 00
Maintenance undistributed	
For geologic survey of the Allegany and Cattaraugus oil fields	1,000 00

STATE COLLEGE FOR TEACHERS**MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921.....	142 15
Equipment, supplies and materials.....	700 00

CORTLAND STATE NORMAL SCHOOL**PERSONAL SERVICE**

Temporary services	1,000 00
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FREDONIA STATE NORMAL SCHOOL**MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921.....	29 00
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POTSDAM STATE NORMAL SCHOOL**MAINTENANCE AND OPERATION**

Printing and advertising, prior to July 1, 1921.....	47 03
Equipment, supplies and materials, prior to July 1, 1921.....	134 44
Repairs and alterations to buildings; repairs and replacement of mechanical equipment, prior to July 1, 1921.....	557 98

ALBANY HOME SCHOOL FOR THE ORAL INSTRUCTION OF THE DEAF

Deficiency in maintenance.....	2,500 00
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NEW YORK STATE NAUTICAL SCHOOL**MAINTENANCE AND OPERATION**

Fuel, light, power and water.....	2,000 00
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BOARD OF EDUCATION OF THE CITY OF WATERTOWN

For payment to the board of education of the city of Watertown for support and maintenance of the Jefferson Farm School maintained for the support and instruction of truants committed under the education law from the several counties of the state	5,000 00
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AGRICULTURAL**DEPARTMENT OF FARMS AND MARKETS****MAINTENANCE AND OPERATION**

Traveling expenses, prior to July 1, 1921.....	325 96
Fixed charges and contributions	
Apportionment to agricultural fairs.....	250,000 00
Maintenance undistributed	
Eradication of bee diseases.....	5,000 00

AGRICULTURAL**NEW YORK STATE AGRICULTURAL EXPERIMENT STATION, GENEVA****PERSONAL SERVICE**

Associate in research	750 00
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NEW YORK STATE COLLEGE OF AGRICULTURE, CORNELL UNIVERSITY**MAINTENANCE AND OPERATION**

Printing and advertising	
Reports and bulletins	15,000 00

NEW YORK STATE SCHOOL OF AGRICULTURE AT COBLESKILL**MAINTENANCE AND OPERATION**

Fuel, light, power and water.....	500 00
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STATE INSTITUTE OF APPLIED AGRICULTURE ON LONG ISLAND**MAINTENANCE AND OPERATION**

Fuel, light, power and water.....	4,000 00
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NEW YORK STATE SCHOOL OF AGRICULTURE, MORRISVILLE**MAINTENANCE AND OPERATION**

Fuel, light, power and water.....	1,000 00
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NEW YORK STATE SCHOOL OF AGRICULTURE AT ST. LAWRENCE UNIVERSITY, CANTON**PERSONAL SERVICE**

For payment to three teachers for services for July and August, 1921	546 67
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MAINTENANCE AND OPERATION

Fuel, light, power and water, including liabilities incurred prior to July 1, 1921.....	2,000 00
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STATE FAIR COMMISSION**MAINTENANCE AND OPERATION**

Repairs and alterations to buildings; repairs and replacement of mechanical equipment	25,000 00
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DEFENSIVE**ADJUTANT-GENERAL'S OFFICE****MAINTENANCE AND OPERATION**

Fixed charges and contributions	
Retired veteran	183 32

STATE ARSENAL—NEW YORK CITY**MAINTENANCE AND OPERATION**

Fuel, light, power and water, including liabilities incurred prior, to July 1, 1921.....	539 91
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NEW YORK NATIONAL GUARD AND NEW YORK GUARD**MAINTENANCE AND OPERATION**

Fixed charges and contributions	
For expenses of training officers.....	40,000 00

DEFENSIVE

STATE ARMORY COMMISSION

MAINTENANCE AND OPERATION

Printing and advertising, prior to July 1, 1921.....	118 28
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UNITED SPANISH WAR VETERANS

MAINTENANCE AND OPERATION

Printing departmental reports, including liabilities incurred prior to July 1, 1921.....	1,200 00
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AMERICAN LEGION, DEPARTMENT OF NEW YORK

MAINTENANCE AND OPERATION

Printing departmental reports.....	1,000 00
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STATE COMPTROLLER

WORLD WAR BONUS FUND

MAINTENANCE AND OPERATION

Fixed charges and contributions	
Repayment of temporary loan for world war bonus fund — expenses	50,000 00

PENAL

PRISON DEPARTMENT—MAIN OFFICE

MAINTENANCE AND OPERATION

Traveling expenses, prior to July 1, 1921.....	232 83
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BOARD OF PAROLE

MAINTENANCE AND OPERATION

Traveling expenses	900 00
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AUBURN PRISON

MAINTENANCE AND OPERATION

Medical and surgical care, supplies and equipment, prior to July 1, 1921	281 77
General administration, prior to July 1, 1921.....	49 87
Traveling expenses, prior to July 1, 1921.....	125 26

CLINTON PRISON

PERSONAL SERVICE

Medical services, prior to July 1, 1921.....	100 00
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GREAT MEADOW PRISON

PERSONAL SERVICE

Guard and blacksmith	158 33
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SING SING PRISON

PERSONAL SERVICE

Guard	33 33
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MAINTENANCE AND OPERATION

Office expenses, prior to July 1, 1921.....	56 64
Traveling expenses, prior to July 1, 1921.....	122 70
Fixed charges and contributions	
Pensions	7,230 41

CURATIVE**STATE HOSPITAL COMMISSION****MAINTENANCE AND OPERATION****Traveling expenses**

Delegate or delegates from the commission or the hospitals to the meeting of the American Psychiatric Association.....	200 00
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Fixed charges and contributions

Surety bonds, insurance, etc., prior to July 1, 1921.....	225 00
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BINGHAMTON STATE HOSPITAL**MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921.....	23 00
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Medical and surgical care, supplies and equipment, prior to July 1, 1921	419 43
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CENTRAL ISLIP STATE HOSPITAL**MAINTENANCE AND OPERATION**

Clothing, prior to July 1, 1921.....	395 00
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Office expenses, prior to July 1, 1921.....	56 45
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GOWANDA STATE HOMEOPATHIC HOSPITAL**MAINTENANCE AND OPERATION**

Traveling expenses, prior to July 1, 1921.....	77 34
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KINGS PARK STATE HOSPITAL**MAINTENANCE AND OPERATION**

Traveling expenses, prior to July 1, 1921.....	661 74
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MIDDLETOWN STATE HOMEOPATHIC HOSPITAL**MAINTENANCE AND OPERATION**

Food, prior to July 1, 1921.....	122 50
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Farm and garden, prior to July 1, 1921.....	776 86
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Traveling expenses, prior to July 1, 1921.....	43 40
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HOSPITAL DEVELOPMENT COMMISSION**ROBERT TAYLOR**

For payment to Robert Taylor, a former chauffeur for the Hospital Development Commission, for the difference between his pay as soldier and the pay attaching to such position as chauffeur while he was in the active military service of the state and United States during the world war.....	738 98
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CHARITABLE**STATE BOARD OF CHARITIES****MAINTENANCE AND OPERATION**

Traveling expenses, state alien and non-resident poor.....	10,000 00
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NEW YORK STATE REFORMATORY, ELMIRA**PERSONAL SERVICE**

Instructor, plumbing, prior to July 1, 1921.....	60 00
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CHARITABLE**MAINTENANCE AND OPERATION**

Medical and surgical care, supplies and equipment, prior to July 1, 1921.....	47 30
General administration, prior to July 1, 1921.....	4 90
Fixed charges and contributions	
For payment to guards retired at Napanoch for year ending June 30, 1922.....	2,346 67

INSTITUTION FOR DEFECTIVE DELINQUENTS AT NAPANOCH

For expenses of maintenance and operation including personal service	6,000 00
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NEW YORK STATE HOSPITAL FOR THE TREATMENT OF PULMONARY TUBERCULOSIS, RAY BROOK**MAINTENANCE AND OPERATION**

Fuel, light, power and water, including liabilities, prior to July 1, 1921	1,511 92
General administration, prior to July 1, 1921.....	13 58
Traveling expenses, prior to July 1, 1921.....	384 34

CRAIG COLONY, SONYEA**MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921.....	177 38
Furniture, furnishings and household supplies, prior to July 1, 1921	99 66

PROTECTIVE**TRUSTEES PUBLIC BUILDINGS****MAINTENANCE AND OPERATION**

Rent	4,779 82
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CONSERVATION COMMISSION**MAINTENANCE AND OPERATION**

Communication, prior to July 1, 1921.....	300 00
Fixed charges and contributions	
Repayment of temporary loan for suppressing forest fires....	44,000 00
For payment to R. J. Hosley, assignee of the Norwood Manufacturing Company, for timber reserved and purchased by the state on Township No. 35, Hamilton county, including interest	2,837 47
For payment to John Bettes for horse burned in forest fire....	125 00
For payment to John M. Peters estate for reimbursement for taxes paid on land owned by state, known as State Lot No. 32	78 33

CONSERVATION COMMISSION — SARATOGA SPRINGS DIVISION**PERSONAL SERVICE**

Laborers and hired horses and vehicles.....	2,000 00
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MAINTENANCE AND OPERATION

Repairs and alterations to buildings, roads, bridges and dams, repairs and replacements of mechanical equipment.....	4,000 00
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**PROTECTIVE
LAND OFFICE**

MAINTENANCE AND OPERATION

For advertising and other expenses incident to the sale of lands acquired by the state through tax sales and through the foreclosure of mortgages to the commissioners of the United States deposit fund	5,000 00
Traveling expenses, including liabilities incurred prior to July 1, 1921	236 12

AMERICAN SCENIC AND HISTORIC PRESERVATION SOCIETY

MAINTENANCE AND OPERATION

Printing, departmental report.....	1,500 00
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FIRE ISLAND STATE PARK

MAINTENANCE AND OPERATION

For expenses of maintenance and operation, prior to July 1, 1921	12 20
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PALISADES INTERSTATE PARK

PERSONAL SERVICE

Temporary service	8,000 00
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STONY POINT RESERVATION

MAINTENANCE AND OPERATION

Fuel, light, power and water, prior to July 1, 1921.....	21 22
Repairs and alterations, etc., prior to July 1, 1921.....	41 04

STATE COMPTROLLER

MAINTENANCE AND OPERATION

Fixed charges and contributions	
Assessments for local improvements as provided by chapter 88 of the laws of 1920, and chapter 138 of the laws of 1921..	100,000 00

CONSTRUCTIVE

DEPARTMENT OF HIGHWAYS

MAINTENANCE AND OPERATION

Fixed charges and contributions	
Retired veteran	630 00

GENERAL

STATE COMPTROLLER

Fixed charges and contributions	
County treasurers, for payment of taxes on public land.....	185,984 18
Redemption of lands	13,000 00
For payment of New York state's pro rata share of the expenses for the Governor's conference for the calendar year of 1922..	250 00
For payment to Franklin county for state, county, town and school taxes assessed and levied by the town of Altamont and Union Free School District No. 1, in said town, for the years nineteen hundred and nineteen, nineteen hundred and twenty and nineteen hundred and twenty-one, on land owned by and assessed to the state within said county, town and school district, notwithstanding the provisions of section 22 of the, tax law	977 87

PART III**CONSTRUCTION AND REPAIRS**

Appropriation.

Audit.

Section 3. The following sums, or so much thereof as may be necessary, are hereby severally appropriated out of any moneys in the treasury not otherwise appropriated, to the persons and for the purposes hereinafter set forth for construction, improvements, repairs and equipment. Warrants are not to be issued except in the case of salaries until the sums claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same upon vouchers presented as required by section twelve of the finance law.

REGULATIVE**DEPARTMENT OF HEALTH—DIVISION OF LABORATORIES**

For repairs to the present farm buildings; work may be done by day labor or contract.....	\$6,000 00
For further development of the laboratory and its units.....	92,000 00

PUBLIC SERVICE COMMISSION

For payment of the State's share for completing the elimination of grade crossings of the Erie Railroad in the city of Jamestown	175,000 00
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EDUCATIONAL**EDUCATION DEPARTMENT**

For completing school building on St. Regis Reservation at Hogsburg including heating apparatus, blackboards and painting	2,500 00
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AGRICULTURAL**NEW YORK STATE COLLEGE OF AGRICULTURE, CORNELL UNIVERSITY**

For equipment of new dairy industry building.....	183,000 00
For equipment of cold storage plant.....	15,000 00

NEW YORK STATE VETERINARY COLLEGE CORNELL UNIVERSITY

Additional appropriation to construct the south wing of James Law hall; balance of amount hereby appropriated, if any, may be used for equipment for said building.....	53,000 00
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STATE INSTITUTE OF APPLIED AGRICULTURE ON LONG ISLAND

For tractor and farm machinery laboratory.....	10,000 00
For completion of dormitory now under construction.....	8,000 00

STATE FAIR COMMISSION

For constructing sheep and swine building, including equipment	125,000 00
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DEFENSIVE**STATE ARMORY COMMISSION**

For work done by contract or upon estimate or for the employment of labor in addition to that appropriated elsewhere, for repairs, improvements and betterments to state armories, rifle ranges and camp grounds.....	30,000 00
Additional appropriation for the erection of a state armory in the city of Troy to replace the one destroyed by fire.....	25,000 00
For construction or permanent betterments at state camp of instruction, Peekskill, to be done by day labor or contract....	58,000 00
For repairs and alterations to the state arsenal, New York city.	20,000 00

PENAL**PRISON DEPARTMENT**

For the construction of highways under the direction of the superintendent of state prisons, requiring prisoners to be engaged in this work, and for the purchase of implements and equipment pursuant to the provisions of section 179 of chapter 47 of laws of 1909, being the prison law, such highways to be designated by the state commissioner of highways, thirty thousand dollars (\$30,000). Not more than two thousand five hundred dollars (\$2,500) of this sum shall be available to the state department of highways for the payment of the salary of the engineer in charge of such construction, not more than one thousand dollars (\$1,000) of this sum shall be available to the state department of highways for the payment of the necessary expenses of such engineer and not more than three thousand dollars (\$3,000) of this sum shall be available for guarding prisoners 30,000 00

CLINTON PRISON

For remodelling and equipping hospital wards 5,000 00
 For reconstruction of elevator to prison hospital 3,000 00
 (Supplementing appropriation of \$2,000 for the same purpose by chapter 165, laws of 1920.)

GREAT MEADOW PRISON

For new foundation and moving cow barn 2,500 00

- SING SING PRISON

For commencing construction of a new prison wall and construction of a new lock north railroad gate, in the wall of the present prison yard, to be a part of the completed wall about the old and new Sing Sing prison and for the services of necessary foremen, carpenters and additional guards required for this construction and for ten cents a day additional allowance for maintenance for each inmate employed at this work. 83,000 00

CURATIVE**BINGHAMTON STATE HOSPITAL**

For repairs to reservoir 6,500 00

BUFFALO STATE HOSPITAL

For additional accommodations 50,000 00

CENTRAL ISLIP STATE HOSPITAL

For additional accommodations, including kitchen, dining room, water supply and heating and lighting facilities 285,000 00

HUDSON RIVER STATE HOSPITAL

For furniture and equipment for nurses home 20,000 00

KINGS PARK STATE HOSPITAL

For additional accommodations, including construction, reconstruction, alterations, equipment, fire protection, addition to water storage reservoir, and remodeling old power house for industrial and educational center for soldier patients.... 362,000 00

MANHATTAN STATE HOSPITAL

For furniture and equipment of dining room 10,000 00

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL

For additional accommodations for patients, including reconstruction of main building and equipment, additional fire protection and new laundry and equipment 550,000 00

CURATIVE

UTICA STATE HOSPITAL

For additional accommodations, dining room reconstruction and equipment, and laundry equipment..... 100,000 00

UTICA STATE HOSPITAL — MARCY DIVISION

For continuing the construction and equipment of new buildings on the Marcy site, construction of walks and roads and remodeling of the existing farm buildings..... 600,000 00

WILLARD STATE HOSPITAL

For furniture and equipment for tuberculosis hospital..... 6,000 00

CHARITABLE

NEW YORK STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS, RAY BROOK

For fire protection and additional water supply..... 13,000 00

ROME STATE SCHOOL FOR MENTAL DEFECTIVES, ROME

For lighting facilities..... 15,000 00

SYRACUSE STATE SCHOOL FOR MENTAL DEFECTIVES, SYRACUSE

For the purchase of the Munro farm..... 20,000 00

LETCHWORTH VILLAGE, THIELLS

For further development, including attendants' home, assembly hall and industrial building..... 210,000 00

NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW

For the completion of quadrangle solarium and reconstruction of sewer lines 40,000 00

PROTECTIVE

TRUSTEES OF PUBLIC BUILDINGS

For repairs of capitol roof..... 25,000 00
For capitol reconstruction, repairs and equipment..... 8,000 00

CONSERVATION COMMISSION

For field station, including equipment..... 1,000 00
Middle Island Game Farm — material for storage shed..... 500 00
Brownville Game Farm — material for storage shed..... 500 00
Repairs and improvements at St. Lawrence reservation (including extension of Kring's Point road)..... 1,500 00
For improvement of public highway at Cuba Reservation, including the acquisition of land for same..... 1,000 00

ALLEGANY STATE PARK

For the acquisition of land..... 45,000 00

BENNINGTON BATTLEFIELD

For road construction 3,000 00

CONSTRUCTIVE

DEPARTMENT OF HIGHWAYS

For the acquisition or purchase of Black lake bridge in accordance with the provisions of chapter two hundred and five, of the laws of nineteen hundred and twenty-one..... 68,125 00

CONSTRUCTIVE

DEPARTMENT OF PUBLIC WORKS

For draining channel and abandoned Chemung canal north of village of Horseheads, Chemung county..... 3,000 00

CANAL FUND

DEPARTMENT OF PUBLIC WORKS

For the purpose of furnishing proper terminals and facilities for Barge canal traffic under chapter seven hundred and forty-six of the laws of nineteen hundred and eleven and acts amendatory thereof and supplemental thereto, the sum of one hundred and fifty thousand dollars (\$150,000), being the miscellaneous receipts from April fourth, nineteen hundred and twenty-one.

For ordinary repairs and maintenance of structures and equipment on and connected with the canal system of the state; for the repair or reconstruction of existing mechanical and other structures which may become destroyed by fires, flood or other unforeseen occurrences, including dredging, and for the operation of such dredges, scows and other floating equipment which may be used in repair and maintenance work on the canals, the work to be done by contract or by day labor, including the rental of necessary plant, machinery and equipment..... 600,000 00

For completing the work of straightening and cleaning out Bell's creek, in the town of Schroepel, Oswego county, and for continuing such work in Six Mile creek from its confluence with Bell's creek to the Oneida river..... 2,500 00

To initiate and start the construction of state canal shops for each of the three divisions and provide for the acquisition of additional land and erection of buildings, installation of necessary machinery, heating plant and other appurtenances..... 300,000 00

To provide for extraordinary repairs to locks, dams and other structures; for repair and renewals of existing plant; to purchase or construct additional floating equipment; installation of electric power to derricks; construction of fenders and other protection to lock approaches; erection of coal pockets; purchase of auto trucks; providing additional aids to navigation; placing of riprap on the exposed banks of the canal system; cleaning out and straightening ditches adjacent to the canal; providing additional terminal equipment; and the paving of terminal areas..... 513,000 00

For the removal, repairs and reconstruction of bridges and structures over the old canal system..... 90,000 00

For the reconstruction of the Broad street bridge over the Champlain canal, Waterford, Saratoga county..... 45,000 00

For reconstruction of Baker bridge over the Black river canal at Boonville, Oneida county..... 27,000 00

Additional appropriation for continuing terminal construction at Rochester..... 50,000 00

PRISON CAPITAL FUND

CLINTON PRISON

For repairs and renewals of industrial shops and buildings, including painting, heating, plumbing, electric equipment and sewers with branch lines, pipes and mains required to furnish power, water, steam, electricity and sewage disposal..... 8,000 00

PART IV

Appropriation.

Section 4. The following sums, being the amounts heretofore assessed or to be refunded pursuant to law, are hereby appropriated for the objects and purposes specified herein, as follows:

COUNTY ARMORY FUND

For maintenance of armories in the counties comprising the third brigade district for the twelve months to commence on the first day of July, nineteen hundred and twenty-two, and to end on the thirtieth day of June, nineteen hundred and twenty-three	\$374,008 84
For construction, alteration, repairs, enlargement, renting and equipping of armories in the counties comprising the third brigade district for the twelve months to commence on the first day of July, nineteen hundred and twenty-two, and to end on the thirtieth day of June, nineteen hundred and twenty-three.	25,616 27
For maintenance of armories in the counties comprising the fourth brigade district for the twelve months to commence on the first day of July, nineteen hundred and twenty-two, and to end on the thirtieth day of June, nineteen hundred and twenty-three	409,965 74
For construction, alteration, repairs, enlargement, renting and equipping of armories in the counties comprising the fourth brigade district for the twelve months to commence on the first day of July, nineteen hundred and twenty-two, and to end on the thirtieth day of June, nineteen hundred and twenty-three.	27,630 00

**STENOGRAPHERS AND COURT EXPENSES, JUDICIAL
REFUND**

For salaries and expenses of judicial officers and employees for the year beginning July first, nineteen hundred and twenty-two:

MUNICIPAL COURT, CITY OF NEW YORK	
Official referee	5,000 00
COURT OF APPEALS LIBRARY, SYRACUSE, N. Y.	
Librarian	3,000 00
SUPREME COURT	
Retired employees	900 00
SECOND DISTRICT	
Additional compensation of justices, 5 at \$7,500.00 (\$37,500.00) less the sum of two thousand, one hundred and eighty-seven dollars and fifty cents, being the unexpended balance of appropriation heretofore made by chapter one hundred and sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$2,187.50)	35,312 50
Stenographers, 6 at \$4,200	25,200 00
Confidential clerks, 4 at \$4,000.00 (\$16,000.00), less the sum of two hundred eight dollars and fifty-one cents, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$208.51)	15,791 49
THIRD DISTRICT	
Stenographers, 4 at \$4,200.00	16,800 00
Additional stenographers, 5 at \$2,500.00	12,500 00
FOURTH DISTRICT	
Stenographers, 4 at \$4,200.00	16,800 00
Additional stenographers, 4 at \$2,500.00	10,000 00

STENOGRAPHERS AND COURT EXPENSES, JUDICIAL

SUPREME COURT — *Continued*

FIFTH DISTRICT

Stenographers, 5 at \$4,200.00 (\$21,000.00), less the sum of two thousand, four hundred fifty dollars, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$2,450.00).....	18,550 00
Confidential clerks, 6 at \$2,500.00.....	15,000 00

SIXTH DISTRICT

Stenographers, 4 at \$4,200.00.....	16,800 00
Confidential clerks, 3 at \$1,800.00 (\$5,400.00), less the sum of three hundred fifty dollars, being the unexpended balance of appropriation heretofore made by chapter one hundred and sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$350.00).....	5,050 00

SEVENTH DISTRICT

Stenographers, 5 at \$4,200.00.....	21,000 00
Confidential clerks, 5 at \$1,800.00.....	9,000 00

EIGHTH DISTRICT

Stenographers, 11 at \$4,200.00.....	46,200 00
Confidential clerks, 10 at \$1,800.00.....	18,000 00
Librarian, Buffalo	4,000 00

NINTH DISTRICT

Additional compensation of justices, 6 at \$7,500.00.....	45,000 00
Stenographers, 6 at \$4,200.00 (\$25,200.00), less the sum of three hundred fifty dollars, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$350.00).....	24,850 00
Confidential clerks, 6 at \$2,500.00.....	15,000 00

THIRD DISTRICT

Additional stenographers, expenses (\$1,800.00) less the sum of one hundred and twenty-seven dollars and ninety cents, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$127.90)....	1,672 10
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FOURTH DISTRICT

Additional stenographers, expenses (\$1,200.00) less the sum of two hundred sixty-one dollars and twenty cents, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$261.20).....	938 80
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TRIAL TERM

For expenses of justices in the third, fourth, fifth, sixth, seventh and eighth judicial districts, assigned by the appellate division or designated by the governor to hold a trial or special term in a judicial district other than that in which he is elected.....	2,000 00
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APPELLATE DIVISION

SECOND DEPARTMENT

Additional compensation of justices 2 at \$7,500.00.....	15,000 00
Official referees, 6 at \$11,500.00 (\$69,000.00) less the sum of six thousand eight hundred thirty-two dollars and five cents, being the unexpended balance of appropriation heretofore made by chapter one hundred sixty-five of the laws of nineteen hundred and twenty, which is hereby reappropriated (re. \$6,832.05)	62,167 95

STENOGRAPHERS AND COURT EXPENSES, JUDICIAL

APPELLATE DIVISION — *Continued*

Confidential clerks, 2 at \$5,500.00.....	11,000 00
Confidential opinion clerks, 2 at \$3,500.00.....	7,000 00
Attendant	3,300 00
Attendant	3,000 00
Attendants, 9 at \$2,700.00.....	24,300 00
Confidential attendants, 3 at 2,700.00.....	8,100 00
Typewriter operators, 2 at \$3,500.00.....	7,000 00
Confidential clerks to justices, 6 at \$4,000.00.....	24,000 00
Deputy clerk	6,000 00
Assistant deputy clerks, 3 at \$4,500.00.....	13,500 00
Case and consultation clerk.....	4,500 00

THIRD DEPARTMENT

Official referees, 7 at \$7,666.66.....	53,666 62
Consultation clerk	2,500 00
Deputy clerk and librarian.....	3,000 00

FOURTH DEPARTMENT

Official referees, 8 at \$7,666.66.....	61,333 28
Consultation clerk	3,500 00
Deputy clerk	3,000 00
Confidential stenographer	1,500 00
Librarian, Rochester	4,000 00
Assistant librarian	1,600 00
Assistant librarian	1,500 00

For deficiencies in appropriations for the year ending June thirtieth, nineteen hundred and twenty-two, the following amounts are hereby appropriated:

STENOGRAPHERS AND COURT EXPENSES, REFUND

SUPREME COURT

SECOND DISTRICT

Confidential clerk	4,000 00
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FOURTH DISTRICT

Additional stenographer	210 28
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FIFTH DISTRICT

Confidential clerk	2,500 00
To Isabel W. G. Reed for compensation for calendar year nineteen hundred and twenty-one as confidential clerk to the late Justice Frederick M. Calder, pursuant to the provisions of subdivision four of section two hundred seventy-nine of the judiciary law as amended by chapter four hundred and fourteen of the laws of nineteen hundred and twenty-one.....	1,500 00

APPELLATE DIVISION

SECOND DEPARTMENT

Attendant	1,350 00
Typewriter operators	600 00
Assistant deputy clerks.....	1,500 00
Case and consultation clerk	500 00

THIRD DEPARTMENT

Official referees	7,666 66
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FOURTH DEPARTMENT

Official referees	1,915 94
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PART V

Section 5. The following sums, or so much thereof as may be necessary, being the unexpended balances of former appropriations, are hereby reappropriated and made immediately available for the same purposes as the former appropriations. Reappropriations.

GENERAL FUND**EXECUTIVE****EXECUTIVE DEPARTMENT**

By chapter 165 of the laws of 1920, for:

General plant service — Moreland act (re. \$10,119.10)

By chapter 176 of the laws of 1921, for:

General plant service — Moreland act (re. \$25,000.00)

ADMINISTRATIVE**STATE COMPTROLLER**

By chapter 176 of the laws of 1921, part 1, for:

Interest on temporary loans (re. \$5,000.00)

By chapter 176 of the laws of 1921, part 5, for:

Interest on temporary loans (re. \$4,106.44)

By chapter 165 of the laws of 1920, for:

Land account (re. \$1,211.44)

By chapter 176 of the laws of 1921, part 1, for:

Land account (re. \$1,299.56)

By chapter 176 of the laws of 1921, part 5, for:

Land account (re. \$6,305.19)

By chapter 17 of the laws of 1921, for:

State employees' retirement system — services and expenses (re. \$4,024.86)

ATTORNEY-GENERAL

By chapter 165 of the laws of 1920, for:

Expenses relating to fixing rates for gas, electricity, etc. (re. \$7,759.69)

By chapter 582 of the laws of 1920, for:

Expenses relating to fixing rates for gas, electricity, etc. (re. \$11,322.24)

By chapter 176 of the laws of 1921, for:

Judgments for costs (re. \$7,500.00)

By chapter 176 of the laws of 1921, for:

Expenses relating to fixing rates for gas, electricity, etc. (re. \$74,705.20)

Federal water power bill — services and expenses (re. \$20,000.00)

LEGISLATIVE**THE SENATE**

By chapter 176 of the laws of 1921, part 2, for:

Majority leader of senate — stenographic and clerical services (re. \$845.00)

By chapter 176 of the laws of 1921, part 5, for:

Majority leader of senate — stenographic and clerical services (re. \$213.34)

By chapter 165 of the laws of 1920, for:

Majority leader of senate — financial clerical assistance (re. \$1,000.00)

By chapter 176 of the laws of 1921, for:

President of senate — stenographic and clerical services (re. \$3,000.00)

THE ASSEMBLY

By chapter 176 of the laws of 1921, part 2, for:

Speaker of assembly — stenographic and clerical services (re. \$605.00)

By chapter 176 of the laws of 1921, part 5, for:

Speaker of assembly — stenographic and clerical services (re. \$650.00)

LEGISLATIVE LEGISLATURE

- By chapter 165 of the laws of 1920, for:
 Printing opinions, decisions and rulings of state officers and departments (re. \$10,250.00)
 Printing supplemental index to senate and assembly bills (re. \$2,021.39)
 By chapter 165 of the laws of 1920, part I, for:
 Binding senate and assembly journals, calendars and documents for libraries (re. \$7,019.49)
 By chapter 176 of the laws of 1921, for:
 Publishing official notices (re. \$29,241.41)
 By chapter 343 of the laws of 1921, for:
 New York charter commission (re. \$20,000.00)

JUDICIAL

- By chapter 650 of the laws of 1921, for:
 Court of claims — judgments (re. \$167,817.47)
 By chapter 176 of the laws of 1921, for:
 Convention on rules of civil practice (re. \$16,468.60)
 By chapter 348 of the laws of 1921, for:
 Judiciary convention (re. \$3,918.23)
 By chapter 176 of the laws of 1921, for:
 Law library, Binghamton (re. \$1,560.00)

REGULATIVE DEPARTMENT OF HEALTH

- By chapter 165, part I, of the laws of 1920, for:
 Printing departmental reports (re. \$6,783.14)
 By chapter 165, part V, of the laws of 1920, for:
 Printing departmental reports (re. \$783.14)
 By chapter 165, part I, of the laws of 1920, for:
 Printing (re. \$1,333.08). The provisions of this or any other act to the contrary notwithstanding these items shall be available to pay for departmental reports for years prior to 1921.

PUBLIC SERVICE COMMISSION

- By chapter 650 of the laws of 1921, for:
 Investigation of property, affairs and rates of New York Telephone Co. (re. \$18,340.18)
 By chapter 134 of the laws of 1921, for:
 Investigation of property affairs and rates of New York Telephone Co. (re. \$30,000.00)
 Statute fixing rates for gas, electricity, etc., services and expenses (re. \$6,069.32)
 By chapter 165 of the laws of 1920, for:
 Grade crossings (re. \$243,409.35)

TAX DEPARTMENT

- By chapter 165 of the laws of 1920, for:
 Printing departmental reports (re. \$5,500.00)

STATE INSTITUTE FOR THE STUDY OF MALIGNANT DISEASE — BUFFALO

- By chapter 903 of the laws of 1920, for:
 Purchase, care and use of radium (re. \$1,913.77)

NEW YORK STATE BRIDGE AND TUNNEL COMMISSION

- By chapter 165 of the laws of 1920, for:
 Printing departmental reports (re. \$1,000.00)

REGULATIVE**NEW YORK STATE BRIDGE AND TUNNEL COMMISSION — Continued**

- By chapter 176 of the laws of 1921, for:
Lands, construction, etc. (re. \$1,408,928.46)
By chapter 192 of the laws of 1921, for:
Lands, construction, etc. (re. \$4,899,653.92)

COMMISSION ON CHILD WELFARE

- By chapter 650 of the laws of 1921 (re. \$6,326.86)
By chapter 176 of the laws of 1921 (re. \$1,862.84)

INTERSTATE BRIDGE COMMISSION

- By chapter 176 of the laws of 1921, for* (re. \$29,537.92)
By chapter 176 of the laws of 1921, for maintenance and operating expenses
(re. \$5,000.00)
By chapter 883 of the laws of 1920, for:
Acquisition of bridges (re. \$125,000.00)

PORT OF NEW YORK AUTHORITY

- By chapter 203 of the laws of 1921 (re. \$52,827.28)

EDUCATIONAL**DEPARTMENT OF EDUCATION**

- By chapter 165 of the laws of 1920, part 1, for:
Printing departmental reports and bulletins (re. \$15,487.32)
By chapter 165 of the laws of 1920, for:
Non-resident tuition (re. \$97,748.88)
Support of common schools (re. \$185,534.22)
By chapter 667 of the laws of 1921, for:
Private schools—licensing (re. \$9,533.11)
By chapter 650 of the laws of 1921, for:
Rehabilitation—services and expenses (re. \$56,520.75)
By chapter 666 of the laws of 1921, for:
Teachers—certificates of loyalty (re. \$12,869.18)
By chapter 165 of the laws of 1920, for:
Indian reservations—sanitary work—school building (re. \$712.62)
By chapter 663 of the laws of 1920, for:
St. Regis Indian reservation—school building (re. \$2,028.65)

CORTLAND STATE NORMAL SCHOOL

- By chapter 776 of the laws of 1920, for:
Construction of buildings (re. \$169,168.88)
By chapter 165 of the laws of 1920, for:
Acquisition of site (re. \$1,725.00)
By chapter 176, laws of 1921, for:*
For the Cortland State Normal School, as authorized by chapter 776, laws
of 1920, and all acts amendatory thereof and supplementary thereto
(re. \$882,000.00)

GENESEO STATE NORMAL SCHOOL

- By chapter 165 of the laws of 1920, for:
Construction of addition to school (re. \$70,000.00)
New toilets (re. \$1,205.00)
Remodeling heating system (re. \$39,796.39)

POTSDAM STATE NORMAL SCHOOL

- By chapter 165 of the laws of 1920, for:
Changing sewage, ventilating and heating pipes (re. \$2,346.02)
Equipment for new building (re. \$1,348.48)
Renovation of Cook annex (re. \$2,143.85)
Repairs and alterations to Cook and Stowell annexes and completion of
new building (re. \$65,676.45)

* So in original.

AGRICULTURAL**DEPARTMENT FARMS AND MARKETS—DIVISION OF AGRICULTURE**

By chapter 165 of the laws of 1920, for:

Printing departmental reports and bulletins (re. \$6,311.59)

By chapter 176 of the laws of 1921, for:

Printing departmental reports and bulletins, including liabilities incurred prior to July 1, 1921 (re. \$11,000.00)

Diseases of animals—indemnities—glanders (re. \$14,712.50)

Licensing of dogs—fees (re. \$14,970.00)

Rabies—quarantine—services and expenses (re. \$1,770.79)

Reconstruction building (re. \$5,713.01)

By chapter 165 of the laws of 1920, for:

European corn borer (re. \$3,408.19)

By chapter 701 of the laws of 1921, for:

European corn borer (re. \$52,000.00)

By chapter 176 of the laws of 1921, for:

Eradication of European corn borer (re. \$21,917.76)

Eradication of gypsy moth (re. \$19,200.77)

AGRICULTURAL EXPERIMENT STATION, GENEVA

By chapter 165 of the laws of 1920, for:

Departmental reports and bulletins (re. \$870.00)

**NEW YORK STATE COLLEGE OF AGRICULTURE, CORNELL
UNIVERSITY**

By chapter 165 of the laws of 1920, for:

Cold storage for fruit (re. \$16,946.27)

Development and extension (re. \$422,751.75)

Laboratory (re. \$7,296.78)

STATE SCHOOL OF AGRICULTURE AND DOMESTIC SCIENCE, DELHI

By chapter 165 of the laws of 1920, for:

Grading grounds (re. \$993.16)

STATE INSTITUTE OF APPLIED AGRICULTURE ON LONG ISLAND

By chapter 165 of the laws of 1920, for:

Slaughter house (re. \$1,500.00)

DEFENSIVE**ADJUTANT-GENERAL**

By chapter 165 of the laws of 1920, for:

Printing departmental reports (re. \$2,500.00)

By chapter 176 of the laws of 1921, for:

Preparation of the records of New York state troops in world war (re. \$4,480.82)

By chapter 650 of the laws of 1921, for:

Preparation of the records of New York state troops in world war (re. \$5,000.00)

By chapter 176 of the laws of 1921, part 1, for:

Service badges and ribbons (re. \$500.00)

By chapter 176 of the laws of 1921, part 5, for:

Service badges and ribbons (re. \$1,595.61)

By chapter 176 of the laws of 1921, for:

Service ribbons and honor medal board (re. \$4,455.98)

World war—military decorations (re. \$2,899.10)

World war—service ribbons and honor medals (re. \$356.30)

By chapter 650 of the laws of 1921, for:

Allowance for mounted drills (re. \$30,000.00)

DEFENSIVE**ARSENALS AND ARMORIES**

By chapter 165 of the laws of 1920, for:

Repairs — third brigade district (re. \$1,553.12)

Repairs — fourth brigade district (re. \$10,898.16)

Repairs and improvement to state arsenal, armories and rifle ranges (re. \$10,558.24)

Armory for Company G, Tenth Infantry, Yonkers (re. \$3,782.25)

Armory and stable, Troop H, First Cavalry, Rochester (re. \$21,094.47)

UNITED SPANISH WAR VETERANS

By chapter 165 of the laws of 1920, for:

Printing departmental reports (re. \$500.00)

MILITARY TRAINING COMMISSION

By chapter 165 of the laws of 1920, for:

Expenses of maintenance and operation (re. \$350.00)

PENAL**PROBATION COMMISSION**

By chapter 165 of the laws of 1920, for:

Printing departmental reports and bulletins (re. \$1,500.00)

AUBURN PRISON

By chapter 582 of the laws of 1920, for:

Repairs — laundry building (re. \$977.07)

By chapter 165 of the laws of 1920, for:

Windows in cell hall and messroom (re. \$4,441.42)

PRISON FOR WOMEN — AUBURN

By chapter 165 of the laws of 1920, for:

Central heating and lighting plant (re. \$73,083.12)

GREAT MEADOW PRISON

By chapter 165 of the laws of 1920, for:

Construction of shop building (re. \$24,414.51)

Cottages for employees (re. \$4,634.79)

Cow barn (re. \$9,586.63)

CLINTON PRISON

By chapter 165 of the laws of 1920, for:

Drainage and sewage systems:

Purchase of land (re. \$1,500.00)

Repairs and improvements, etc. (re. \$1,979.44)

Installing windows, east hall cell block building (re. \$1,176.03)

Reconstruction of elevator, prison hospital (re. \$2,000.00)

DANNEMORA STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Addition to hennery (re. \$500.00)

Construction for northwest wing (re. \$13,882.69)

MATTEAWAN STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Additional accommodations for tubercular inmates (re. \$6,000.00)

Dining-room and kitchen in women's building (re. \$10,009.89)

Water supply and equipment (re. \$10,000.00)

STATE PRISONS

By chapter 165 of the laws of 1920, for:

Construction of highways (re. \$4,979.73)

Construction of new farm and industrial prison — Wingdale (re. \$159,146.87)

PENITENTIARIES

By chapter 165 of the laws of 1920 (re. \$63,237.47)

PENAL**TRANSPORTATION OF CONVICTS**

By chapter 165 of the laws of 1920 (re. \$7,353.16)

By chapter 176 of the laws of 1921 (re. \$16,422.07)

REIMBURSEMENT—CLINTON COUNTY—EXPENSES FOR TRIAL OF CONVICTS

By chapter 165 of the laws of 1920 (re. \$1,196.20)

CURATIVE**STATE HOSPITAL COMMISSION—PSYCHIATRIC INSTITUTE**

By chapter 176 of the laws of 1921, for:

Development of plans, surveys, et cetera (re. \$25,000.00)

BINGHAMTON STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Bakery machinery (re. \$2,417.33)

Fire escapes (re. \$681.07)

Laundry equipment, including elevator (re. \$9,355.36)

Service lines (re. \$8,340.54)

BROOKLYN STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Additional accommodations for patients (re. \$6,619.02)

Additional refrigeration equipment (re. \$2,662.91)

Elevators (re. \$4,287.63)

Elevators, new buildings (re. \$2,268.58)

Equipment for additional accommodations (re. \$6,831.19)

Laundry and equipment (re. \$2,686.76)

Sewage plant for Creedmoor (re. \$5,630.62)

By chapter 959 of the laws of 1920, for:

Construction of buildings and development of grounds (re. \$465,329.91)

BUFFALO STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Additions and alterations to central heating plant (re. \$29,904.64)

Alterations to administration building (re. \$13,355.25)

CENTRAL ISLIP STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Additional accommodations for patients (re. \$187,961.45)

Additional water supply (re. \$4,559.47)

Cold storage plant and equipment (re. \$24,976.10)

Furniture and equipment for new buildings (re. \$20,626.39)

Laundry building—service connections (re. \$2,046.41)

Open air pavilion for patients (re. \$3,889.04)

Refrigeration unit for kitchen (re. \$3,392.13)

GOWANDA STATE HOMEOPATHIC HOSPITAL

By chapter 165 of the laws of 1920, for:

Water supply and equipment (re. \$15,305.64)

HUDSON RIVER STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Alterations and additions to water supply system (re. \$4,808.00)

Employees' home—cottages and new T. B. group (re. \$13,278.73)

KINGS PARK STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Additional accommodations for patients (re. \$5,276.82)

Additional accommodations for tubercular patients (re. \$75,000.00)

Dining room and kitchen building for tuberculous patients (re. \$85,000.00)

Kitchen and dining room accommodations—tuberculosis pavilions (re. \$19,000.00)

CURATIVE

MANHATTAN STATE HOSPITAL

By chapter 34 of the laws of 1920, for:

Furniture, furnishings and household supplies — naval hospital (re. \$42,-126.99)

Naval hospital (re. \$9,675.11)

By chapter 165 of the laws of 1920, for:

Additional electric machinery (re. \$4,101.59)

Alterations to East building (re. \$75,000.00)

Alterations and reconstruction—United States Naval Hospital group for state use (re. \$44,456.18)

Bathing accommodations—nurses home (re. \$1,027.52)

Bathing accommodations —ward 25 (re. \$1,197.28)

Circulating hot water system (re. \$2,748.31)

Dining-room accommodations for patients—administration building (re. \$1,723.82)

Furniture and equipment for new dining-room (re. \$5,000.00)

Gallery in heating plant and alterations to west power house (re. \$34,000.00)

New boat (re. \$40,000.00)

Sterilizer for laundry (re. \$5,000.00)

By chapter 582 of the laws of 1920, for:

Equipment—assembly hall re. \$10,000.00)

MIDDLETOWN STATE HOMEOPATHIC HOSPITAL

By chapter 165 of the laws of 1920, for:

Building for tubercular patients (re. \$872.92)

Construction of additional accommodations (re. \$82,874.34)

Electric motors for laundry and laundry machinery (re. \$4,427.21)

Equipment — mortuary building (re. \$4,519.51)

Laboratory and mortuary building (re. \$1,931.07)

Removal and rebuilding of barn (re. \$5,664.55)

Service connections — laboratory and mortuary building (re. \$2,465.54)

Storehouse (re. \$10,000.00)

ROCHESTER STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Galvanized ventilating ducts (re. \$598.64)

Reconstruction of roof — north building (re. \$1,000.00)

Sewage disposal pump and piping (re. \$2,474.11)

WILLARD STATE HOSPITAL

By chapter 165 of the laws of 1920, for:

Accommodations for tubercular patients (re. \$15,000.00)

HOSPITAL DEVELOPMENT COMMISSION

By chapter 176 of the laws of 1921, for:

Expenses (re. \$3,804.71)

By chapter 165 of the laws of 1920, for:

Expenses (re. \$832.21)

Site for new hospital (re. \$10,000.00)

CHARITABLE

WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION

By chapter 165 of the laws of 1920, for:

Equipment of new nursery cottage (re. \$2,929.85)

Fire escapes (re. \$1,000.00)

Remodeling heating system (re. \$5,777.71)

Service connections (re. \$1,926.93)

By chapter 582 of the laws of 1920, for:

New cottage with equipment (re. \$1,025.09)

NEW YORK STATE SCHOOL FOR THE BLIND BATAVIA

By chapter 165 of the laws of 1920, for:

Additional fire protection (re. \$2,160.11)

CHARITABLE

NEW YORK STATE SOLDIERS' AND SAILORS' HOME, BATH

By chapter 165 of the laws of 1920, for:

Additional electric machinery and service connections (re. \$19,006.64)

Domestic hot water system (re. \$3,158.81)

By chapter 582 of the laws of 1920, for:

Additional fire protection (re. \$475.01)

NEW YORK STATE REFORMATORY FOR WOMEN, BEDFORD HILLS

By chapter 165 of the laws of 1920, for:

Additional water supply (re. \$2,069.32)

NEW YORK STATE REFORMATORY, ELMIRA

By chapter 165 of the laws of 1920, for:

Emergency repairs to roofs (re. \$752.13)

Capital fund (re. \$5,000.00)

Completion of trade school building number four (re. \$4,621.59)

Installing and extending electric light lines (re. \$503.77)

New paving (re. \$624.74)

Plumbing in cell blocks (re. \$1,028.31)

NEW YORK STATE TRAINING SCHOOL FOR GIRLS, HUDSON

By chapter 165 of the laws of 1920, for:

Reconstruction of industrial building (re. \$40,000.00)

STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY

By chapter 165 of the laws of 1920, for:

Construction of new fireproof cottage for boys (re. \$11,955.75)

Enlarging underpass and putting in overhead crossing (re. \$14,440.58)

Enlarging underpass, etc. (re. \$3,000.00)

THOMAS INDIAN SCHOOL, IROQUOIS

By chapter 165 of the laws of 1920, for:

Additions to dining room (re. \$2,500.00)

Equipment for shop (re. \$1,603.01)

EASTERN NEW YORK REFORMATORY, NAPANOCH

By chapter 165 of the laws of 1920, for:

Completing hospital building, (re. \$6,000.00)

Construction of new hospital (re. \$9,133.55)

Plumbing cell block and necessary tools (re. \$321.57)

SCHOOL FOR MENTAL DEFECTIVES, NEWARK

By chapter 165 of the laws of 1920, for:

Heating mains from power house to buildings (re. \$1,273.18)

NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD

By chapter 165 of the laws of 1920, for:

Toilet and bath, cottage "C" (re. \$500.00)

NEW YORK HOUSE OF REFUGE, RANDALL'S ISLAND

By chapter 165 of the laws of 1920, for:

Repairs and replacing roof on main building (re. \$8,496.25)

Addition to heating plant (re. \$3,500.00)

Altering and enlarging reception quarantine quarters, etc. (re. \$10,000.00)

By chapter 165 of the laws of 1920, for:

Laundry, shop and school building (re. \$15,000.00)

Machinery for laundry, shop and school building (re. \$11,632.50)

NEW YORK STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS, RAY BROOK

By chapter 165 of the laws of 1920, for:

Chlorinating plant (re. \$1,500.00)

Water supply for fire protection (re. \$9,000.00)

CHARITABLE**ROME STATE SCHOOL FOR MENTAL DEFECTIVES**

By chapter 165 of the laws of 1920, for:

Additional bakery equipment (re. \$1,373.60)

Bakery (re. \$10,000.00)

New central heating and lighting plant (re. \$75,000.00)

Rehabilitation of sewage disposal plant (re. \$25,000.00)

CRAIG COLONY, SONYEA

By chapter 165 of the laws of 1920, for:

Additions to water supply system (re. \$1,047.28)

LETCHWORTH VILLAGE, THIELLS

By chapter 165 of the laws of 1920, for:

Addition to sewage disposal plant and chlorinating apparatus (re. \$15,648.38)

Architectural engineers and other assistants (re. \$3,500.00)

Eight cottages, girls' group (re. \$35,532.64)

Electric wiring for Elliott and King cottages (re. \$391.07)

Equipment for central heating plant (re. \$14,215.01)

NEW YORK STATE HOSPITAL FOR THE CARE OF CRIPPLED AND DEFORMED CHILDREN, WEST HAVERSTRAW

By chapter 165 of the laws of 1920, for:

Additional bathing facilities (re. \$2,131.00)

Bathing construction for solaria (re. \$5,500.00)

Cement walks (re. \$1,263.00)

School building (re. \$10,759.13)

Service connections (re. \$1,031.50)

PROTECTIVE**TRUSTEES OF PUBLIC BUILDINGS**

By chapter 582 of the laws of 1920, for:

Construction and repairs (re. \$2,523.72)

By chapter 211 of the laws of 1920, for:

Repairs and construction (re. \$1,694.30)

By chapter 165 of the laws of 1920, for:

State office building, demolishing buildings, etc., on site (re. \$4,021.80)

State office building, plans, etc. (re. \$23,964.28)

State hall, alterations (re. \$26,091.56)

CONSERVATION COMMISSION

By chapter 165 of the laws of 1920, for:

Repairing and construction of spillway—Cuba lake reservation (re. \$2,268.34)

Two auxiliary field stations, Cold Spring Harbor hatchery (re. \$1,500.00)

Construction and equipment of observation towers (re. \$862.93)

By chapter 176 of the laws of 1921, for:

White pine blister rust (re. \$15,345.07)

CONSERVATION COMMISSION—SARATOGA SPRINGS DIVISION

By chapter 34 of the laws of 1920, for:

Capital fund (re. \$28,000.00)

PUBLIC LANDS

By chapter 165 of the laws of 1920, for:

Assessments for local improvements (re. \$2,737.67)

PALISADES INTERSTATE PARK

By chapter 519 of the laws of 1920, for:

Acquisition of land, construction, etc. (re. \$157,478.00)

**PROTECTIVE
SARATOGA MONUMENT**

By chapter 165 of the laws of 1920, for:
Repairs and alteration to monument (re. \$5,000.00)

**NEW YORK MONUMENTS COMMISSION
ALLEGANY STATE PARK**

By chapter 468 of the laws of 1921 (re. \$25,000.00)

MOHANSIC LAKE RESERVATION COMMISSION

By chapter 165 of the laws of 1920, for:
Expenses (re. \$2,732.59)
By chapter 176 of the laws of 1921, for:
Maintenance, repairs, etc. (re. \$11,865.28)

NEW YORK WATER POWER COMMISSION

By chapter 579 of the laws of 1921 (re. \$21,510.62)

COMMISSION ON THEODORE ROOSEVELT MEMORIAL

By chapter 176 of the laws of 1921 (re. \$955.90)

THOMAS McDONOUGH MEMORIAL — PLATTSBURG

By chapter 176 of the laws of 1921 (re. \$9,870.01)

CONSTRUCTIVE

STATE ENGINEER AND SURVEYOR

By chapter 165 of the laws of 1920, for:
Printing departmental reports (re. \$2,650.00)

DEPARTMENT OF PUBLIC WORKS

By chapter 165 of the laws of 1920, for:
Coney Island ship canal (re. \$10,000.00)
Jamaica and Peconic bays canal (re. \$3,423.83)
By chapter 808 of the laws of 1920, for:
Harlem river ship canal (re. \$100,000.00)
By chapter 586 of the laws of 1920, for:
Hudson river bridge — Albany approach — improvement (re. \$15,897.55)
By chapter 585 of the laws of 1920, for:
Hudson river bridge — eastern approach — improvement (re. \$19,939.46)

DEPARTMENT OF HIGHWAYS

By chapter 165 of the laws of 1920, for:
Printing departmental reports (re. \$3,084.48)
Repairs of highways — county roads — section 178 of the highway law (re. \$2,458.59)
Maintenance, repairs and construction of improved state and county highways (re. \$996.08)
Maintenance — state route No. 18 (re. \$4,768.06)
Construction — state route — Greene county (re. \$41,626.08)
By chapter 80 of the laws of 1920, for:
Maintenance and repair of state and county highways — special (re. \$1,073.67)
By chapter 891 of the laws of 1920, for:
Construction — section 1 (re. \$1,214,559.66)
Construction — Chautauqua county — section 1, road No. 1026 (re. \$9,548.41)
Construction — Cortland county — section 1, road No. 1500 (re. \$14,561.31)
Construction — Dutchess county — section 1, roads Nos. 1312 and 1163 (re. \$45,228.55)

CONSTRUCTIVE**DEPARTMENT OF HIGHWAYS—Continued**

By chapter 891 of the laws of 1920, for:

Construction—Erie county—section 1, road No. 1491-A (re. \$5,292.98)
 Construction—Franklin county—section 1, road No. 5613 (re. \$2,900.27)
 Construction—Fulton county—section 1, road No. 621 (re. \$791.04)
 Construction—Genesee county—section 1, road No. 1054 (re. \$2,551.56)
 Construction—Greene county—section 1, roads Nos. 1348, 5583, 1242 (re. \$69,184.01)

Construction—Hamilton county—section 1, roads Nos. 1098, 1098-A, 1100 (re. \$28,956.51)

Construction—Herkimer county—section 1, road No. 5579 (re. \$44,848.75)

By chapter 891 of the laws of 1920, for:

Construction—Monroe county—section 1, road No. 5539 (re. \$40,709.38)

Construction—Nassau county—section 1, road No. 5280 (re. \$9,182.27)

Construction—Niagara county—section 1, road No. 1315 (re. \$2,865.47)

Construction—Onondaga county—section 1, road No. 5587 (re. \$45,813.50)

Construction—Ontario county—section 1, road No. 1278 (re. \$6,626.17)

Construction—Orange county—section 1, road No. 449 (re. \$5,677.26)

Construction—Otsego county—section 1, road No. 1409 (re. \$53,812.71)

Construction—Schenectady county—section 1, road No. 5545 (re. \$5,946.59)

Construction—Ulster county—section 1, roads No. 1373 and No. 5601 (re. \$30,452.46)

Construction—Westchester county—section 1, roads No. 5571 and No. 1309 (re. \$54,481.69)

Reimbursements to counties on account of war contracts—section 2 (re. \$137,164.76)

Cayuga county—reimbursements to counties on account of war contracts—section 2, roads No. 1327 and No. 1327-A (re. \$1,591.58)

Rensselaer county—reimbursements to counties on account of war contracts—section 2 (re. \$10,152.49)

Construction—Wayne county—section 2, road No. 1058-A (re. \$6,431.48)

Construction—Wyoming county—section 2, road No. 1349-A (re. \$2,760.06)

By chapter 62 of the laws of 1920, for:

Rondout Creek bridge (re. \$63,675.01)

By chapter 154 of the laws of 1920 for:

Federal rural post roads—construction and improvement (re. \$1,928,614.26)

Federal rural post roads—preliminary engineering and advertising (re. \$307,070.76)

COMMISSION ON ST. LAWRENCE SHIP CANAL

By chapter 339 of the laws of 1921 (re. \$8,010.57)

GRAVESEND AND JAMAICA BAYS WATERWAYS BOARD

By chapter 165 of the laws of 1920 (re. \$1,105.67)

HIGHWAY IMPROVEMENT FUND

By chapter 76 of the laws of 1920, for:

Construction of highways—Warren county (re. \$194,665.61)

By chapter 661 of the laws of 1920, for:

Construction of highways (re. \$127,963.92)

Construction of highways—Lewis county (re. \$107,482.64)

By chapter 345 of the laws of 1921, for:

Construction of state and county highways (re. \$100,313.26)

County treasurer of Chenango county, for refund for overpayment of sinking fund and interest under chapter 400 of the laws of 1915 (re. \$7,270.11)

STATE FOREST PRESERVE FUND

By chapter 681 of the laws of 1920 (re. \$2,218,762.00)

GENERAL**ERRONEOUS PAYMENT OF TAXES**

By chapter 165 of the laws of 1920 (re. \$2,086.15)

By chapter 176 of the laws of 1921 (re. \$6 220.00)

CUTTING, LARSON COMPANY, INC.

By chapter 582 of the laws of 1920, for:

Refund (re. \$717.50)

REDEMPTION OF LANDS

By chapter 176 of the laws of 1921 (re. \$5,495.91)

REFUND OF TAXES PAID IN ERROR

By chapter 165 of the laws of 1920 (re. \$1,473 00)

CANAL FUND

By chapter 151 of the laws of 1918 and chapter 165 of the laws of 1920, for
Purchase of electrical pumps at new type locks (re. \$1,685.04)

By chapter 151 of the laws of 1918 and chapter 165 of the laws of 1920, for:
Extension of telephone service to new canal structures (line construction)
(re. \$2,947.17)

By chapter 564 of the laws of 1918 and chapter 165 of the laws of 1920, for:
Restore the Black River canal to a navigable condition for its entire
length by the repair and rebuilding of certain structures thereof (re.
\$1,009.45)

By chapter 85 of the laws of 1918 and chapter 165 of the laws of 1920, for:
Deepening the channel of Ellicott creek from the Erie canal to the city line
of the city of Tonawanda and for the repair of the bridges crossing the
same (re. \$25,000.00)

By chapter 884 of the laws of 1920, for:

Improving the Oneida feeder in the city of Oneida (re. \$1,299.70)

By chapter 907 of the laws of 1920, for:

Reconstruction and rebuilding of the bridge crossing the Hudson river and
Barge canal and connecting the cities of Troy and Cohoes between the
counties of Albany and Rensselaer (re. \$131,560.97)

By chapter 341 of the laws of 1918 and chapter 165 of the laws of 1920, for:
Improvement of Glen or Mill creek at Watkins, Schuyler county (re.
\$9,500.00)

By chapter 941 of the laws of 1920, for:

Miscellaneous receipts from February 1 to September 22, 1920, inclusive,
on account of the improvement of the Erie, Oswego and Champlain canals,
under chapter 147 of the laws of 1903, and acts amendatory thereof and
supplemental thereto (re. \$50,506.18)

By chapter 38 of the laws of 1920, for:

Payment of costs of construction, advertising, engineering and miscellan-
eous expenses incurred and to be incurred in connection with the comple-
tion of the improvement of the Cayuga and Seneca canal (re. \$47,593.57)

By chapter 698 of the laws of 1920, for:

Construction of barge canal grain terminal at Oswego (re. \$59,333.66)

By chapter 402 of the laws of 1920, for:

Continuation of the work of constructing canal terminals and furnishing
facilities for canal traffic in the city of Buffalo as authorized by chapter
746 of the laws of 1911, as amended (re. \$315,945.41)

Continuation of the work of constructing canal terminals and furnishing
facilities for canal traffic in the city of New York as authorized by
chapter 746 of the laws of 1911, as amended (re. \$590,721.44)

By chapter 49 of the laws of 1920, for:

Construction of barge canal terminals on the Hudson river, and incidental
work connected therewith, including the acquisition of property therefor,
with a view of improving the commerce of the state (re. \$60,367.12)

PART VI

STATE DEBT SERVICE

Section 6. The several sums specified in this section, or so much thereof as Appropriation, may be sufficient to accomplish in full the purposes designated by the appropriation, are hereby appropriated out of any moneys in the treasury not otherwise appropriated, and are made immediately available for the legal requirements of the debt service for the year beginning on the first day of July, nineteen hundred and twenty-two, namely:

Canal debt sinking funds

Fund No. 2 (Erie, Champlain and Oswego canals, \$2,000,000.00 3% bonds)	
For amortization	136,420 12
For interest	60,000 00
Fund No. 3 (Erie, Champlain and Oswego canals, \$21,000,000.00 3% bonds)	
For interest	630,000 00
Fund No. 4 (Erie, Champlain and Oswego canals, \$40,000,000.00 4% bonds)	
For amortization	125,504 03
For interest	1,600,000 00
Fund No. 5 (Cayuga and Seneca canal, \$3,000,000.00 4% bonds)	
For amortization	8,777 62
For interest	120,000 00
Fund No. 6 (Barge canal terminal, \$5,000,000.00 4% bonds)	
For amortization	82,042 64
For interest	200,000 00
Fund No. 7 (Erie, Champlain and Oswego canals, \$30,000,000.00 4½% bonds)	
For amortization	71,844 76
For interest	1,350,000 00
Fund No. 8 (Cayuga and Seneca canal, \$4,000,000.00 4¼% bonds)	
For amortization	19,213 55
For interest	170,000 00
Fund No. 9 (Barge canal terminal, \$5,000,000.00 4¼% bonds)	
For amortization	72,727 38
For interest	212,500 00
Fund No. 10 (Erie, Champlain and Oswego canals, \$8,000,000.00 4¼% bonds)	
For amortization	40,125 14
For interest	340,000 00
Fund No. 11 (Erie, Champlain and Oswego canals, \$27,000,000.00 4% bonds)	
For amortization	135,913 13
For interest	1,080,000 00
Fund No. 12 (Barge canal terminals, \$3,000,000.00 4% bonds)	
For amortization	20,233 64
For interest	120,000 00
Fund No. 13 (Barge canal terminals, \$6,664,000.00 5% serial bonds, 1923-1972)	
For amortization	136,000 00
For interest	205,704 82

Highway debt sinking funds

Fund No. 1 (\$1,000,000.00 3% bonds)	
For interest	30,000 00
Fund No. 2 (\$33,000,000.00 4% bonds)	
For interest	1,320,000 00
Fund No. 3 (\$16,000,000.00 4½% bonds)	
For amortization	26,909 06
For interest	720,000 00

STATE DEBT SERVICE — *Continued*

Fund No. 4 (\$5,000,000.00 4½% bonds)	
For amortization	3,158 26
For interest	225,000 00
Fund No. 5 (\$10,000,000.00 4½% bonds)	
For amortization	39,213 83
For interest	425,000 00
Fund No. 6 (\$15,000,000.00 4% bonds)	
For amortization	45,242 33
For interest	600,000 00
Fund No. 7 (\$19,600,000.00 5% serial bonds, 1923-1972)	
For amortization	400,000 00
For interest	562,100 51
Palisades Interstate Park debt sinking funds	
Fund No. 1 (\$2,500,000.00 4% bonds)	
For amortization	7,450 80
For interest	100,000 00
Fund No. 2 (\$2,500,000.00 4% bonds)	
For amortization	15,810 72
For interest	100,000 00
State Forest Preserve debt sinking fund	
Fund No. 1 (\$2,500,000.00 4% bonds)	
For amortization	9,151 95
For interest	100,000 00
Fund No. 2 (\$4,900,000.00 5% serial bonds, 1923-1972)	
For amortization	100,000 00
For interest	295,491 20
Saratoga Springs State Reservation	
Serial bonds due March, 1923.....	117,500 00
For interest	13,360 00

Moneys available for what liabilities; former appropriations.

§ 7. The moneys appropriated by this act, except as otherwise provided by sections two and five, shall be available only to pay liabilities incurred within the year beginning July first, nineteen hundred and twenty-two, and ending June thirtieth, nineteen hundred and twenty-three, except for construction or permanent betterments and for repairs contained in part three or this act. All former appropriations from the general fund and the canal maintenance fund and the various acts therefor, except appropriations for construction work and permanent betterments and appropriations made by the legislature of nineteen hundred and twenty-one, shall cease to have force or effect after June thirtieth, nineteen hundred and twenty-two other than for the payment of liabilities incurred on or before that date.

Amounts appropriated to be paid pursuant to state finance law.

§ 8. The several amounts herein appropriated shall be deemed to be only for so much thereof as shall be sufficient to accomplish in full the purposes designated by the appropriations and shall be paid by the treasurer from the respective sums as specified, pursuant to the requirements of the state finance law, and it shall be the duty of the treasurer to report annually to the legislature the detail of the several expenditures.

Compensation of officer or employee, when not prescribed by law, how determined.

§ 9. The salary or compensation of any officer or employee, when not prescribed by law, for which an appropriation is made by this act, may be fixed by the department, official or officials appointing such officer or employing such employees at a less but not at a greater sum than the amount herein appropriated for the salary or compensation of such officer or employee; and when any appropriation made by this act is for compensation at a per diem rate for a stated number of days, the department, official or officials employing such employees shall have the authority to employ in the position the number of employees for whom compensation is provided in the appropriation, calculating one employee for each three hundred days, the provisions of any general or special statute to the contrary notwithstanding. No appropriation herein contained shall be available for the salary or compensation of any regular officer or employee whose employment or office is not herein specified unless

Employment to be authorized.

his appointment or employment is expressly authorized; and except as otherwise herein expressly provided, the appropriations made in this act for traveling expenses of officers or employees are for actual and necessary expenses only, in the performance of official duties and to be paid upon proper proof thereof, as required by section twelve of the state finance law, and no other or further fixed allowance for expenses shall be granted or paid, anything in any other statute to the contrary notwithstanding. An appropriation by this act which is applicable to the payment of traveling or hotel expenses of an officer or employee shall not be expended for traveling or hotel expenses outside of the state unless expressly authorized or provided by this act. Any appropriations made by this act for salary, compensation or expenses shall be the salary, compensation or expenses for one year of the officer, employee, office, board, department, commission or bureau for whom the same is appropriated, notwithstanding existing provisions of any other statute fixing the annual salary, compensation or expenses of such officer or employee or the expenses of such officer, board, department, commission or bureau at a different amount, except that this provision shall not repeal or affect any other appropriation act, passed in the year nineteen hundred and twenty-two, appropriating money to pay, during such year or the fiscal year beginning July first, nineteen hundred and twenty-two, the amount of an increase in the salary, compensation or expenses of any such officer or employee made by a law enacted in such year. Not more than sixty per centum of the amount appropriated in part I of this act for any purpose of maintenance and operation shall be expended or obligated prior to January first, nineteen hundred and twenty-two, without the approval of the governor, the chairman of the senate finance committee and the chairman of the ways and means committee of the assembly.

Travelling expenses.

Appropriations for salaries and expenses to be for one year.

Limitation of expenditures for maintenance and operation prior to Jan. 1, 1923.

§ 10. No part of any appropriation made by this act for construction except for highways shall be expended for personal service except on the approval of the board of estimate and control. This provision may be complied with by the filing by it with the comptroller and the civil service commission of a list of the positions so approved and the time for which any person may be employed in such position. This provision, however, shall not apply to personal service employed by a contractor or by an institution on construction work done under special fund estimate.

Expenditure of appropriation for construction for personal service.

§ 11. A manager, trustee or officer of any state charitable or other institution receiving moneys under this act from the state treasury for maintenance and support shall be entitled to actual and necessary traveling expenses when attending meetings of the board at the office of the institution or in the performance of other official duties undertaken pursuant to a resolution of the board of managers of which he is a member and with the approval of the fiscal supervisor of state charities or hospital commission.

Travelling expenses of managers, trustees and officers of state institutions.

§ 12. The comptroller shall forthwith prepare and publish definitions of the classification of expense by titles employed in this act, defining the purposes for which moneys appropriated under each title may be expended. The comptroller shall have the power to amend such definitions from time to time as in his judgment becomes necessary for the proper conduct of the fiscal affairs of the state. The definitions, as published by the comptroller, and as amended, shall govern expenditures from these appropriations and the audit of claim and accounts by the comptroller where said classifications are used in this act.

Definitions of classification of expense.

§ 13. This act shall take effect immediately.

"Nineteen hundred and twenty-three" evidently intended. Rectified by L. 1922, ch. 397, § 8, post.

CHAPTER 107

AN ACT to amend the tax law, in relation to distribution of the income tax.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 63,
§ 382, as
added by
L. 1919,
ch. 827,
and
amended by
L. 1921,
ch. 477,
amended.

Section 1. Section three hundred and eighty-two of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and twenty-seven of the laws of nineteen hundred and nineteen, and last amended by chapter four hundred and seventy-seven of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 382. **Distribution of the income tax.** All revenue collected or received by the commission under this article shall be deposited daily with such responsible banks, banking houses or trust companies as may be designated by the comptroller, and to the credit of the comptroller of the state of New York. Such deposits shall be kept separate and apart from all other moneys in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the revenue collected under this article the comptroller shall retain in his hands sufficient to provide at all times a fund in his hands in the sum of two hundred and fifty thousand dollars out of which he shall pay any refunds to which taxpayers shall be entitled under the provisions of this article. Of the remainder, fifty per centum shall be paid into the state treasury to the credit of the general fund. The remaining fifty per centum thereof shall, not later than the first day of July, and in case of moneys subsequently collected at least quarterly thereafter, be distributed and paid to the treasurers of the several counties of the state, in the proportion that the assessed valuation of the real property of each county bears to the aggregate assessed valuation of the real property of the state. The tax commission shall in due time for the distribution thereof certify to the comptroller the apportionment to the various counties the share of taxes received under this article to which they are entitled and upon verification and approval of such apportionment by him the comptroller shall distribute such share of the tax moneys in accordance with the provisions of this article. As to any county included in the city of New York such payment shall be made to the receiver of taxes in such city and be paid into the general fund for the reduction of taxation of the city of New York. The county treasurer shall apportion the amount so received among the several towns and cities within the county, except a city contain-

¹ Previously amended by L. 1920, ch. 694.

ing a part of a town, in proportion that the assessed valuation of the real property of each town or city bears to the aggregate assessed valuation of the real property of the county. The county treasurer shall pay the amount so apportioned to each city to the chief fiscal officer of the city to be paid into the general fund for city purposes; and in a county having a population of over three hundred thousand according to the last federal or state census and adjoining a city of the first class having a population of one million and upwards, the county treasurer shall pay the amount so apportioned to the supervisor of the town and such amount shall be by him credited to general town purposes, and such amounts shall not be apportioned or distributed as hereinafter provided. If a town does not contain any part of a city or village, the county treasurer shall pay the amount so apportioned to the town to the supervisor of the town. If one or more incorporated villages or cities be wholly or partly within a town, the county treasurer shall divide the amount apportioned to such town between such town and such village, villages or city in the proportions that the assessed valuations of the real property of such town, as appears by the last preceding town assessment-roll, and of the real property of such village, villages or city, or the portion thereof wholly within such town, as appears by the last preceding village or city assessment-roll, bear respectively to the aggregate assessed valuation of the real property of such town and of such village, villages or city, determined by adding together the assessed valuation of the real property of the town, as appears by the last preceding town assessment-roll and the assessed valuation of the real property of such village, villages or city, or the portion thereof wholly within such town, as appears by the last preceding village or city assessment-roll, as the case may be. If two or more villages be entitled to share in such division, the county treasurer shall divide between them the amount to which they are entitled in the proportions that the assessed valuation of the real property of such villages located in the town, as appears by the last preceding village assessment-rolls bears to the aggregate assessed valuations of the real property of such villages located in such town, as so determined. The county treasurer shall pay over to the chief fiscal officer or officers of such village or villages or such city the amount to which such village, villages or city is entitled in accordance with the above apportionment, and shall pay the remaining portion thereof to the supervisor of the town. Except as hereinafter provided, upon¹ the distribution of such revenues to any town the supervisor shall, with the approval of the town board,² distribute not to exceed one-third of such allotment to such town among the several school districts in the town in the proportions that the assessed valuation of the real property of each of such school districts, respectively, or part thereof in

¹ Word "upon" omitted. Words "Except as hereinafter provided, upon," new.

² Words "with the approval of the town board," new.

such town as the same appears upon the last preceding town assessment-roll bears to the aggregate assessed valuation of the real property of the entire town, but the amount so distributed to any school district for any one year shall not exceed one-fourth of the amount raised by taxation in such school district for school purposes during the preceding year, and the excess, if any, not so distributed to any such district shall be retained by the supervisor and credited, together with the remaining two-thirds of such total allotment, to general town purposes. 'However, the town board, by resolution, may direct the supervisor to retain all such moneys allotted to the town, in which case such one-third shall not be so distributed to the school districts, but all moneys so allotted to the towns shall be credited to general town purposes.

§ 2. This act shall take effect immediately.

CHAPTER 108

AN ACT to amend the insurance law, in relation to applications for policies of insurance.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 53,
§ 55, as
amended by
L. 1910,
ch. 624
and L. 1913,
ch. 519,
amended,

Section 1. Section fifty-five of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as amended by chapter six hundred and thirty-four of the laws of nineteen hundred and ten and by chapter five hundred and nineteen of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

§ 55. **Insurance without the consent of the insured prohibited.** No policy of insurance shall be issued upon any property except upon the application and in the name of some person having an interest in the property. No policy or agreement for insurance shall be issued upon the life or health of another or against loss by disablement by accident except upon the application of the person insured; but a wife may take a policy of insurance upon the life or health of her husband or against loss by his disablement by accident; an employer may take out a policy of insurance covering his employees collectively for the benefit of such as may suffer loss from injury, death or disablement resulting from sickness, and a person liable for the support of a child of the age of one year and upward may take a policy of insurance thereon, the amount payable under which may be made to increase with advancing age and which shall not exceed the sums specified in the following table, the ages wherein specified being the age at time

* Following sentence new.

of death, for an amount not exceeding the sums specified in the table:

Between the ages of one and two years, thirty dollars.

Between the ages of two and three years, thirty-four dollars.

Between the ages of three and four years, forty dollars.

Between the ages of four and five years, forty-eight dollars.

Between the ages of five and six years, fifty-eight dollars.

Between the ages of six and seven years, one hundred and forty dollars.

Between the ages of seven and eight years, one hundred and sixty-eight dollars.

Between the ages of eight and nine years, two hundred dollars.

Between the ages of nine and ten years, two hundred and forty dollars.

Between the ages of ten and eleven years, three hundred dollars.

Between the ages of eleven and twelve years, three hundred and eighty dollars.

Between the ages of twelve and thirteen years, four hundred and sixty dollars.

Between the ages of thirteen and sixteen years, five hundred and twenty dollars.

Between the ages of sixteen and seventeen years, six hundred and twelve dollars.

Between the ages of seventeen and eighteen years, seven hundred dollars.

Between the ages of eighteen and nineteen years, seven hundred and eighty-four dollars.

Between the ages of nineteen and twenty years, eight hundred and fifty-five dollars.

Between the ages of twenty and twenty-one years, nine hundred and thirty dollars.

In respect of insurance heretofore or hereafter, by any person not of the full age of twenty-one years but of the age, as determined by the nearest birthday,¹ of not less than² fifteen years,³ effected upon the life of such minor, for the benefit of such minor or for the benefit of the father, mother, husband, wife, brother or sister of such minor, the assured shall not, by reason only of such minority, be deemed incompetent to contract for such insurance or for the surrender of such insurance, or to give a valid discharge for any benefit accruing or for money payable under the contract.

§ 2. This act shall take effect immediately.

¹ Words "as determined by the nearest birthday," new.

² Words "not less than" new.

³ Words "or upwards" omitted

CHAPTER 109

AN ACT to authorize the town of Harrison, of the county of Westchester, to issue bonds for the purpose of meeting certain obligations of said town outstanding on December thirty-first, nineteen hundred and twenty-one.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Bond issue to pay certain obligations, authorized.

Section 1. The town of Harrison is authorized to issue its bonds in a sum of not to exceed one hundred and twenty-five thousand dollars, for the purposes of: (1) Paying a balance due the county of Westchester for state and county taxes and special appropriations levied upon the taxable property within said town in the year nineteen hundred and twenty-one; (2) paying and retiring lawfully issued certificates of indebtedness representing claims duly audited by the board of auditors of said town prior to December thirty-first, nineteen hundred and twenty-one; (3) paying claims duly audited by the board of auditors of the said town prior to December thirty-first, nineteen hundred and twenty-one, for which no certificates were issued; (4) meeting deficiencies in the funds received for highway, school, police and special district purposes and erroneously applied to the purposes of general government.

Bonds; how designated, maturity, etc.

§ 2. The bonds hereby authorized shall be termed "deficiency bonds" and shall fully mature not more than five years from date of issue. They shall be made payable in equal annual installments and bear interest at a rate of not to exceed six per centum per annum payable semi-annually.

Indebtedness and deficiencies; how determined.
Sale of bonds.

§ 3. The comptroller of the state shall determine the amount of such indebtedness and deficiencies as of December thirty-first, nineteen hundred and twenty-one, and shall certify the same by items to the town board of said town. Thereupon the said town board may, in the form and manner provided by statute, cause bonds of said town as hereby authorized to be issued, sold and delivered for such part of the total sum so certified as it deems advisable.

Application of proceeds of bonds.

§ 4. The proceeds of said bonds together with any premium thereon received upon the sale thereof shall be applied to the payment of the principal and accrued interest upon such certificates and the indebtedness of the county of Westchester; and to meeting such deficiencies existing in the school and special district funds in the hands of the supervisor of said town.

Tax for payment.

§ 5. The town board shall cause such sums to be raised annually by tax as may be necessary to provide for the payment of the principal and interest of such bonds as the same shall become due; such tax to be laid upon the taxable property of such town, levied in the same manner as other town taxes therein.

§ 6. This act shall take effect immediately.

CHAPTER 110

AN ACT to amend the highway law, in relation to the removal of snow from the highways.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section fifty-three-a, to read as follows:

§ 53-a. **Snow removal.** The board of supervisors of any county may annually appropriate and expend such sum as it deems proper for the removal of snow from the highways of the county. The board shall designate the highways from which the snow is to be removed and the work shall be conducted in a manner to be determined by the board under the direction of the county superintendent of highways.

The board may also annually appropriate and expend such sum as it deems proper for the planting of trees, and the purchase and erection of snow fences, or other structures to prevent the drifting of snow on the highways, and may enter into agreements with owners or occupants of property where necessary for the erection and maintenance of such structures.

Whenever any equipment acquired by a county as provided in this section is not needed by the county, the county superintendent may lease such equipment to any town or towns in the county to be used on town highways under the direction of the town superintendent.

§ 2. Section fifty-three-a of such chapter, as added by chapter five hundred and sixty-seven of the laws of nineteen hundred and ten and amended by chapter eighty of the laws of nineteen hundred and thirteen, is hereby renumbered section fifty-three-b.

§ 3. This act shall take effect immediately.

§ 53a added to L. 1909, ch. 30.

§ 53a, as added by L. 1910, ch. 567, and amended by L. 1913, ch. 90, renumbered § 53b.

CHAPTER 111

AN ACT to amend the town law, in relation to the compensation of assessors and overseers of the poor of towns in the county of Washington.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section eighty-five of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as last amended by chapter six hundred and

§ 10 added to L. 1909, ch. 62, § 85, subd. 1.

CHAPTER 109

AN ACT to authorize the town of Harrison, of the county of Westchester, to issue bonds for the purpose of meeting certain obligations of said town outstanding on December thirty-first, nineteen hundred and twenty-one.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Bond issue to pay certain obligations, authorized.

Section 1. The town of Harrison is authorized to issue its bonds in a sum of not to exceed one hundred and twenty-five thousand dollars, for the purposes of: (1) Paying a balance due the county of Westchester for state and county taxes and special appropriations levied upon the taxable property within said town in the year nineteen hundred and twenty-one; (2) paying and retiring lawfully issued certificates of indebtedness representing claims duly audited by the board of auditors of said town prior to December thirty-first, nineteen hundred and twenty-one; (3) paying claims duly audited by the board of auditors of the said town prior to December thirty-first, nineteen hundred and twenty-one, for which no certificates were issued; (4) meeting deficiencies in the funds received for highway, school, police and special district purposes and erroneously applied to the purposes of general government.

Bonds; how designated, maturity, etc.

§ 2. The bonds hereby authorized shall be termed "deficiency bonds" and shall fully mature not more than five years from date of issue. They shall be made payable in equal annual installments and bear interest at a rate of not to exceed six per centum per annum payable semi-annually.

Indebtedness and deficiencies; how determined.

Sale of bonds.

§ 3. The comptroller of the state shall determine the amount of such indebtedness and deficiencies as of December thirty-first, nineteen hundred and twenty-one, and shall certify the same by items to the town board of said town. Thereupon the said town board may, in the form and manner provided by statute, cause bonds of said town as hereby authorized to be issued, sold and delivered for such part of the total sum so certified as it deems advisable.

Application of proceeds of bonds.

§ 4. The proceeds of said bonds together with any premium thereon received upon the sale thereof shall be applied to the payment of the principal and accrued interest upon such certificates and the indebtedness of the county of Westchester; and to meeting such deficiencies existing in the school and special district funds in the hands of the supervisor of said town.

Tax for payment.

§ 5. The town board shall cause such sums to be raised annually by tax as may be necessary to provide for the payment of the principal and interest of such bonds as the same shall become due; such tax to be laid upon the taxable property of such town, levied in the same manner as other town taxes therein.

§ 6. This act shall take effect immediately.

CHAPTER 110

AN ACT to amend the highway law, in relation to the removal of snow from the highways.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section fifty-three-a, to read as follows:

§ 53a added to L. 1909, ch. 30.

§ 53-a. **Snow removal.** The board of supervisors of any county may annually appropriate and expend such sum as it deems proper for the removal of snow from the highways of the county. The board shall designate the highways from which the snow is to be removed and the work shall be conducted in a manner to be determined by the board under the direction of the county superintendent of highways.

The board may also annually appropriate and expend such sum as it deems proper for the planting of trees, and the purchase and erection of snow fences, or other structures to prevent the drifting of snow on the highways, and may enter into agreements with owners or occupants of property where necessary for the erection and maintenance of such structures.

Whenever any equipment acquired by a county as provided in this section is not needed by the county, the county superintendent may lease such equipment to any town or towns in the county to be used on town highways under the direction of the town superintendent.

§ 2. Section fifty-three-a of such chapter, as added by chapter five hundred and sixty-seven of the laws of nineteen hundred and ten and amended by chapter eighty of the laws of nineteen hundred and thirteen, is hereby renumbered section fifty-three-b.

§ 53a, as added by L. 1910, ch. 567, and amended by L. 1912, ch. 80, renumbered § 53b.

§ 3. This act shall take effect immediately.

CHAPTER 111

AN ACT to amend the town law, in relation to the compensation of assessors and overseers of the poor of towns in the county of Washington.

Became a law March 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section eighty-five of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as last amended by chapter six hundred and

§ 60 added to L. 1909, ch. 63, § 85, subd. 1.

fifty-five of the laws of nineteen hundred and twenty, is hereby amended by inserting therein, after paragraph n, a new paragraph, to be paragraph o, to read as follows:

Salaries of
town over-
seers of
poor and
assessors.

o. Notwithstanding the provisions of any other subdivision of this section, a town board of any town in the county of Washington may, by a resolution duly adopted, provide that the assessors and overseers of the poor of the town shall receive annual salaries in amounts to be fixed by the town board. The annual salary of such assessors shall not exceed the sum of two hundred and fifty dollars, and such overseer of the poor, the sum of six hundred dollars. Each assessor shall receive the same compensation. The amount of the salaries fixed by this subdivision shall be a town charge and in excess of any charges for services or expenses of the assessors and overseer of the poor which may be a county charge.

§ 2. This act shall take effect immediately.

CHAPTER 112

AN ACT to appropriate the miscellaneous receipts on account of the improvement of the Erie, Oswego and Champlain canals, under chapter one hundred and forty-seven of the laws of nineteen hundred and three and acts amendatory thereof and supplemental thereto, for the purpose of said improvement.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of one million three hundred thousand dollars ((\$1,300,000.00), being the miscellaneous receipts, from September twenty-second, nineteen hundred and twenty, on account of the improvement of the Erie, Oswego and Champlain canals under chapter one hundred and forty-seven of the laws of nineteen hundred and three and acts amendatory thereof and supplemental thereto, is hereby appropriated for the purpose of said improvement.

§ 2. This act shall take effect immediately.

CHAPTER 113

AN ACT to amend the education law, in relation to trustees of public libraries.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 21
(revision of

Section 1. Subdivision one of section eleven hundred and twenty-three of chapter twenty-one of the laws of nineteen hun-

dred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such subdivision being last amended by chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:²

1. Public libraries established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this chapter; provided that the number of trustees shall be five; that in cities they shall be appointed by the mayor and confirmed by the common council, in counties they shall be appointed by the county board of supervisors, in villages they shall be appointed by the village board of trustees, in towns they shall be appointed by the town board, and in school districts they shall be elected by the legal voters; that the first trustees shall determine by lot the year in which the term of office of each trustee shall expire and that a new trustee shall be elected or appointed annually to serve for five years. ^{Trustees: powers, number, appointment, terms.} The charter of any public library granted prior to April thirtieth, nineteen hundred and twenty-one, which provides for trustees, their term of office and method of election or appointment in a manner differing from that hereinbefore provided, shall remain in full force and effect until the regents, upon application of the library trustees, shall amend said charter to conform to the provisions of law in effect when such amendment is made.

§ 2. This act shall take effect immediately.

CHAPTER 114

AN ACT to amend the education law, in relation to the appellate division library, third department.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as generally amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended by adding a new section, to be section eleven hundred and sixty-three-a, to read as follows: ^{§ 1163a added to L. 1909, ch. 21 (revision of L. 1910, ch. 140).}

§ 1163-a. **Appellate division library, third department.** The law library of the appellate division of the third department shall be kept in the county court house of Albany county and shall be in the care and custody and under the control of the

¹ Previously amended by L. 1918, ch. 113.

² Subd. 1 is again amended by L. 1922, ch. 345, post. The amendment effected here is substantially identical with that made by said ch. 345.

³ Following sentence new.

justices of the appellate division of said third department, who shall be the trustees thereof. With the library heretofore provided for said appellate division, there shall be consolidated the Albany county law library, now situated in said Albany county court house, when the same shall be transferred to said trustees by the board of supervisors of said county, which board is hereby empowered to make said transfer by suitable resolution. Upon the passage of said resolution of transfer the consolidated libraries shall be known as the appellate division library, third department, and shall continue to occupy their present respective quarters in the Albany county court house and shall be so administered that the part thereof which shall be located in the rooms of the appellate division shall be for the exclusive use of the said court. The said trustees may make rules and regulations for the management and protection of said library and prescribe penalties for the violation thereof. They may sue for and recover such penalties and may maintain actions for injury to said library. The present librarian of the said Albany county law library is hereby made the librarian of said appellate division library, subject to removal at the pleasure of the justices of the said appellate division of the third department and his successor shall likewise be appointed and may be removed at pleasure by said justices. The said librarian shall be paid an annual salary to be fixed by said justices at not to exceed thirty-five hundred dollars per annum. Such salary shall be paid in monthly installments by the state comptroller and shall be levied and assessed by him upon the counties constituting the third judicial department. The librarian shall, in addition to the duties of librarian, perform any and all other duties as may be required of or imposed upon him by said justices in relation to the executive and administrative business of the court.

§ 2. The sum of forty-six hundred and sixty-six dollars and sixty-six cents (\$4,666.66), or so much thereof as may be needed, is hereby appropriated for the salary of the librarian of such library for the period expiring June thirtieth, nineteen hundred and twenty-three.

§ 3. This act shall take effect immediately.

CHAPTER 115

AN ACT to amend the election law, in relation to voting machines in cities of the first class.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 22,
§ 323, as
amended by
L. 1921,
ch. 311,
amended.

Section 1. Section three hundred and ninety-three of chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," as amended by chapter three

hundred and ninety-one of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:¹

§ 393. **Adoption of voting machines.** The board of elections of the city of New York and the common council or other legislative governing body of each other city of the first class shall, and the common council or other legislative governing body of any other city, the town board of any town, or the board of trustees of any village may, adopt for use at elections any kind of voting machine approved by the state board of voting machine commissioners, or the use of which has been specifically authorized by law; and thereupon such voting machine may be used at any or all elections held in such city, town or village, or in any part thereof, for voting, registering and counting votes cast at such elections. Voting machines of different kinds may be adopted for different districts in the same city, town or village.

²If, on or before the first day of April, nineteen hundred and twenty-two, such board of elections, common council or legislative governing body, as the case may be, of a city of the first class, shall have failed to agree thereon, the secretary of state, within ten days thereafter, shall adopt a kind or kinds of voting machine for use at elections in such cities. A sufficient number of voting machines shall thereafter be provided in the manner prescribed in section three hundred and ninety-five-a so that at the general election in nineteen hundred and twenty-two polling places in such cities to the extent of at least fifteen per centum shall be equipped therewith. At least an additional forty per centum of the polling places in such cities shall be so equipped with voting machines for use at the general election in nineteen hundred and twenty-three. All the remaining polling places in such cities shall be so equipped with voting machines for use at the general election in nineteen hundred and twenty-four.

§ 2. Section three hundred and ninety-five of such chapter is hereby amended to read as follows:³

§ 395. **Providing machines.** Except as otherwise provided in section three hundred and ninety-five-a with respect to cities of the first class,⁴ the local authorities adopting a voting machine shall, as soon as practicable thereafter, provide for each polling place one or more voting machines in complete working order, and shall thereafter preserve and keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election district or districts within the city, town or village as the officers adopting the same may direct.

¹Section 393, as here amended, is incorporated in new election law, L. 1922, ch. 588, post, as § 343 thereof.

²Remainder of section materially amended.

³Section 395, as here amended, is incorporated in new election law, L. 1922, ch. 588, as § 245 thereof.

⁴Section to here new.

§ 395a
added.

§ 3. Such chapter is hereby amended by inserting therein a new section, to be section three hundred and ninety-five-a, to read as follows:⁵

§ 395-a. **Providing machines in first class cities.** Whenever a kind or kinds of voting machine shall have been or hereafter shall be adopted for use in a city of the first class and such machine shall not have been provided on or before the first day of May, nineteen hundred and twenty-two, the board of elections of the city of New York, or the common council or other legislative governing body of any other city of the first class, as the case may be, shall provide a sufficient number of voting machines to satisfy the requirements of section three hundred and ninety-three of this chapter. Such board of elections of the city of New York or common council or other legislative governing body shall determine on or before the first day of July the election districts in which such voting machines shall be installed in each year, but if such board of elections, common council or body, are unable to agree upon the districts, such determination shall be made by the secretary of state within ten days thereafter. The voting machine adopted shall be thereafter used in the districts so determined upon, except that if for any reason it shall be impossible to obtain the full number necessary, so many shall be used as may be available. In the event that such board of elections, common council or other legislative governing body shall not agree upon and execute a contract or contracts for the purchase of the necessary voting machines for the year nineteen hundred and twenty-two on or before the fifteenth day of May, nineteen hundred and twenty-two, and for nineteen hundred and twenty-three and nineteen hundred and twenty-four, on or before the first day of March in each of such years respectively, such contract or contracts shall be awarded, made and executed by the secretary of state on approval of the attorney-general as to form. The expense of making and entering into such contracts, including the preparation and printing of specifications, and also all payments for voting machines to be made thereunder, shall be chargeable to the city, and it shall be the duty of the comptroller or other chief fiscal officer of the city to pay the same upon the certificate of the local board, body or officer making such contract, or upon the certificate of the secretary of state in the event that such contract be made by him. For the purpose of providing funds with which to pay such sums the comptroller or other chief financial officer of such city is hereby authorized and directed to issue and sell special revenue bonds or other similar obligations of such city and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of money necessary to be raised by taxation to carry on the business of such city, and shall be made a part of the tax levy for the year next following the year in which such bonds

⁵ Section 395a, as here added, is incorporated in new election law, L. 1922, ch. 588, post, as § 246 thereof.

are issued. No provision of any city charter or other law or ordinance governing the purchase of patented articles shall be deemed to apply to the purchase of voting machines pursuant to the provisions of this section.

§ 4. This act shall take effect immediately.

CHAPTER 116

AN ACT to amend the conservation law, in relation to the taking of raccoon.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and ninety-eight of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter four hundred and sixty-nine of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 198, as
added by
L. 1912,
ch. 818,
and
amended by
L. 1920,
ch. 469,
amended.

§ 198. **Mink; raccoon and sable; open season.** Mink and sable may be taken either in the day time or at night and in any manner and possessed from November tenth to March fifteenth, both inclusive. Raccoon may be taken² in the day time or at night in any manner and possessed from November tenth to February tenth, both inclusive.

§ 2. This act shall take effect immediately.

CHAPTER 117

AN ACT to amend the civil practice act, in relation to giving additional security in proceedings for the sale of the real property of infant or incompetent.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirteen hundred and ninety-five of the civil practice act is hereby amended to read as follows:

§ 1395
amended.

§ 1395. **Referee to inquire into the application.** Upon the presentation of the petition, and the filing of the bond or undertaking where the filing of such a bond or undertaking shall be necessary, the court must make an order appointing a suitable person a

¹ Previously amended by L. 1913, ch. 508; L. 1914, ch. 92; L. 1916, ch. 521; L. 1917, ch. 374; L. 1919, ch. 288.

² Word "elsewhere" omitted.

referee to inquire into the merits of the application. The referee must examine into the truth of the allegations of the petition, hear the allegations and proofs of all persons interested in the property, or otherwise interested in the application, and report his opinion thereupon, together with the testimony, with all convenient speed. ¹ If at any time during the pendency of the proceeding or before the deed, mortgage, lease or release is delivered, it shall appear to the court that the security given in such proceeding by the committee or special guardian of the incompetent or infant is not sufficient in amount or in other particulars does not comply with the requirements of this act or of the rules of civil practice, the court may by order require the filing of other or additional security without prejudice to any of the proceedings theretofore had. Such additional or other security shall be given and filed within ten days after the entry of such order and thereupon it shall have the same force and effect as if it had been filed before the entry of the order appointing a referee.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 118

AN ACT to amend the county law, in relation to fire districts outside of incorporated villages.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 18
added to
L. 1909,
ch. 16,
§ 28.

Section 1. Section thirty-eight of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," such section having been last amended by chapter twenty-nine of the laws of nineteen hundred and twenty-one, is hereby amended by adding a new subdivision, to be subdivision thirteen, to read as follows:

Fire district coterminous with lighting district; merger.

13. If a fire district established pursuant to this section be wholly within and substantially coterminous with a lighting district established pursuant to article twelve of the town law, the town board of the town in which such fire district is located, or if it be located in two or more towns, the town boards of such towns by joint action, may call a meeting of the resident taxpayers of the fire district for the purpose of voting upon a proposition to merge such fire district with the lighting district in which it is located. Such meeting shall be called by a notice posted conspicuously in at least two of the most public places in such fire district, at least ten days before the holding of any such meeting, which notices shall state the time, place and purpose of the meeting. Such meeting shall be presided over by the

Meeting of taxpayers for approval.

¹ Remainder of section new.

clerk or clerks of the towns in which such fire district is located. The resident taxpayers attending such meeting shall select an inspector to receive ballots, and a clerk to record the names of the voters. Such meeting shall be open to receive ballots for not less than two hours, which hours shall be stated in the notice. Every taxpayer in such fire district who is assessed for real or personal property on the last preceding assessment-roll of the town in which he resides shall be entitled to vote thereat. If a majority of the ballots cast upon such proposition be in the affirmative, the officers presiding over such meeting shall file a certificate of the result of such election in the office of the clerk or clerks of the town or towns in which such fire district is located. Upon the filing of such certificate, the fire district as a separate district shall be abolished, and the boundaries thereof shall be deemed extended so as to be coterminous with the boundaries of the lighting district in which such fire district is wholly situated. The fire commissioners of such fire district, upon request, shall turn over to the clerk of the town in which such fire district is located, or if located in two or more towns to the clerk of the town whose office shall be agreed upon as the record office of the fire district by the town boards of the towns in which such fire district is located, all the books, records and personal property of the fire district. After such merger is effected the office of fire commissioner and treasurer of the fire district shall be abolished, and the town board of the town, or the town boards of the several towns, in which such fire district is located shall, in respect of such fire district, have all the powers of fire commissioners under this section. The money needed for any purpose authorized by this section shall be appropriated or raised only in the manner authorized by the town law for expenses incurred or to be incurred, under article twelve of the town law. The principal and interest of bonds of the fire district outstanding at the time of such merger shall be a charge only upon the real property included within the fire district, and the amount needed to pay such interest and principal, as the same shall become due, shall be assessed, levied and collected on the territory included in such former fire district, in the same manner, at the same time and by the same officers as the taxes of the town in which the fire district is located are assessed, levied and collected, and the town board of the town in which such district is located shall provide for the manner in which such interest and principal shall be paid. The treasurer of the fire district shall pay over to the supervisor of the town in which such fire district is located, or if located in two or more towns, to a supervisor of one of such towns to be selected by the town board or boards, any money of the fire district remaining in his hands at the time of such merger, and shall take a receipt therefor. Any of such unexpended balance shall be expended for the purposes specified in this section, as provided by the town board of the town or towns in which such fire district is located.

Merger;
how
effected.

Effect of
merger.

§ 2. This act shall take effect immediately.

CHAPTER 119

AN ACT to amend the conservation law, in relation to importation of game from without the United States.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 373, as
added by
L. 1912,
ch. 313,
and
amended by
L. 1916,
ch. 402,
amended.

Section 1. Section three hundred and seventy-three of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter four hundred and two of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

§ 373. Certain mammals and birds may be imported from without the United States and sold. The unplucked carcasses of pheasants of all species, Scotch grouse, European black-game, European black plover, European grey-legged partridge, European red-legged partridge, Egyptian quail, and the unplucked carcasses of birds of a species or sub-species not native to this state,² and the carcasses of European red deer, fallow deer, roe-buck and reindeer may be imported into this state from without the United States³ at any time, provided, nevertheless, that immediately upon their importation⁴ there shall be affixed to each bird and to each quarter and each loin of each deer a tag or seal in the manner provided by section three hundred and seventy-two. The said tags or seals shall remain, as aforesaid, until the quarters and loin of such deer, and each bird to which it shall be affixed shall have been consumed, and the sale of any quarter, loin or larger portion of such deer, or of any portion of such bird which shall not at the time have affixed to it the tag or seal aforesaid shall constitute a violation of this section. Provided, nevertheless, that the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club may sell portions of a quarter or loin of any such deer so tagged, or portions of any birds so tagged to a guest, customer or member for consumption. No dealer other than the keeper of a hotel, a restaurant, a boarding house or a retail dealer in meat or a club shall sell or offer for sale any such game imported and tagged as aforesaid without first obtaining a license so to do from the commission upon such

¹ Previously amended by L. 1913, ch. 508.

² Words "and the unplucked carcasses of birds of a species or sub-species not native to this state," new.

³ Words "and sold therein" omitted.

⁴ Words "and before they shall have been sold by the importer," omitted.

terms and conditions as the commission may prescribe. Such license shall expire on the last day of December in each year at midnight unless sooner revoked by the commission.

§ 2. This act shall take effect immediately.

CHAPTER 120

AN ACT to amend the conservation law, in relation to the taking of squirrels in Niagara county.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section one hundred and ninety-five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, water, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter two hundred and twelve of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 196,
subd. 1, as
added by
L. 1912,
ch. 318,
and
amended by
L. 1921,
ch. 212,
amended.

1. Open season. Black, gray and fox squirrels may be taken and possessed from October fifteenth to November fifteenth, both inclusive, except on Long Island, where they may be taken and possessed from November first to December thirty-first, both inclusive. No person shall take black, gray or fox squirrels within the corporate limits of any city or village except under a permit issued by the commission. ² In the county of Niagara there shall be no open season for the taking of black, gray and fox squirrels.

§ 2. This act shall take effect immediately.

CHAPTER 121

AN ACT to amend the insurance law, in relation to assessment corporations.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section two hundred and sixty-six of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter three hundred and twenty-eight of the laws of nineteen hundred and ten, and last amended by chapter four hun-

L. 1909,
ch. 32,
§ 266,
subd. 1, as
added by
L. 1910,
ch. 328,
and
amended by
L. 1921,
ch. 410,
amended.

¹Previously amended by L. 1913, ch. 508; L. 1920, ch. 70.

²Following sentence new.

dred and ten of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

Property
that may
be insured.

Limits-
of
risk.

§ 266,
subd. 4,
as added by
L. 1921,
ch. 410,
amended.

Property
outside
territorial
limits.

Subd. 5
added to
§ 266, as
added by
L. 1910,
ch. 328.
Reinsurance
with other
corpora-
tions.

1. Such corporations may issue policies of insurance on detached dwelling houses, barns, hop houses, cheese factories, creameries, school buildings and other buildings, and the contents of any such buildings, on farm produce and other property not more hazardous and on live stock; provided that no such corporation shall expose itself to any loss on any one risk in an amount exceeding seven thousand dollars,² or, if such policy is against loss or damage by reason of larceny, to the extent of not more than five hundred dollars on any one risk.

§ 2. Subdivision four of section two hundred and sixty-six of such chapter, as added by chapter three hundred and twenty-eight of the laws of nineteen hundred and ten, such subdivision being added by chapter four hundred and ten of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

4. No such corporation shall insure any buildings or property out of the limits of the territory comprised in its certificate of incorporation and the territory to which it may heretofore have been legally extended, or to which it shall hereafter be extended under the provisions of this article, except in the case of reinsurance as hereinafter provided and,³ except that when a member of such corporation who owns or occupies premises situate in part without such limits, has buildings or property, or pastures live stock on that part thereof lying beyond such limits, he may insure such property, buildings and their contents and such live stock with such property or buildings as lie within the territorial limits of the corporation. Such corporation shall not do business in cities of more than six hundred thousand inhabitants.

§ 3. Section two hundred and sixty-six of such chapter, as added by chapter three hundred and twenty-eight of the laws of nineteen hundred and ten, is hereby amended by inserting therein a new subdivision, to be subdivision five, to read as follows:

5. Every such corporation, provided its articles of incorporation and by-laws permit, may cede to or accept from any other such corporation all over one thousand dollars of any risk assumed by it located anywhere within the state, except in a city or incorporated village having more than fifteen thousand inhabitants. No such corporation shall cede more than fifty per centum of the total amount of its outstanding risks without the approval in writing of the superintendent of insurance. The superintendent of insurance shall require schedules of reinsurance to be filed by every such corporation at the time of making the annual report and at such other times as he may direct. The

¹ Previously amended by L. 1911, ch. 303.

² Words "corporation shall expose itself to any loss on any one risk in an amount exceeding seven thousand dollars," substituted for words "policy shall be issued for more than seven thousand dollars on any one risk."

³ Words "except in the case of reinsurance as hereinafter provided and," new.

words "member," "person," or "person insured," as used in this article, shall be deemed to include the ceding corporation.

§ 4. This act shall take effect immediately.

CHAPTER 122

AN ACT to amend the penal law, in relation to adulterated food and to repeal certain sections thereof in relation to the same subject.

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventeen hundred and forty-eight of the ^{§ 1748} penal law is hereby amended to read as follows:^{amended.}

§ 1748. **Adulterated drugs.**

A person who:

1. With the intent that the same may be sold as unadulterated or undiluted, adulterates or dilutes any drug or medicine, for man or beast; or,

2. Knowing that the same has been adulterated or diluted, offers for sale or sells the same as unadulterated or undiluted, or without disclosing or informing the purchaser that the same has been adulterated or diluted, in a case where special provision has not been made by statute, for the punishment of the offense; or,

3. Sells or offers to sell, or stores or transports with intent to sell for any purpose other than cooling beer in casks, ice cut from any canal or from the wide waters or basins of any canal, unless the ice so sold, or offered for sale or stored or transported, is contained in a building, cart, car, sleigh, float or receptacle upon which is plainly marked in roman or capital letters, not less than eight inches square, the words, "canal ice;"

Is guilty of a misdemeanor.

§ 2. Subdivision three of section one hundred and eighty, section one hundred and ninety-two, section four hundred and thirty-three, section seventeen hundred and fifty-one and section seven-hundred and fifty-three of such chapter are hereby repealed. ^{§ 180, subd. 3, §§ 192, 433, 1751, 1753 repealed.}

§ 3. This act shall take effect April first, nineteen hundred and twenty-two. ^{In effect April 1, 1922.}

¹Section materially amended. Provisions relative to adulterated foods and drink eliminated. See farms and markets law (L. 1922, ch. 48), arts. 4, 17, ante.

CHAPTER 123

AN ACT to amend chapter one hundred and seventeen of the laws of eighteen hundred and ninety-seven, entitled "An act to make the office of sheriff of Washington county a salaried office and regulating the management of said office."

Became a law March 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1897,
ch. 117,
§ 11
amended.

Section 1. Section eleven of chapter one hundred and seventeen of the laws of eighteen hundred and ninety-seven, entitled "An act to make the office of sheriff of Washington county a salaried office, and regulating the management of said office," is hereby amended to read as follows:

Jail.
Provision
and pay-
ment for
supplies.

§ 11. The jail of the county shall be kept by the sheriff of the county as now required by law. All furniture, implements, materials, tools and supplies of whatever nature necessary for the custody and maintenance of the prisoners and persons detained within said jail, shall be provided by said sheriff and his actual and necessary disbursements in providing the same shall be a county charge and shall be paid by the county as follows: ¹The sheriff shall make payments which he is authorized to make under this section only by orders drawn on the county treasurer, payable to the persons entitled thereto and showing upon the face thereof the purpose for which the order is given, which said orders the said county treasurer is hereby authorized and directed to pay upon presentation thereof. The sheriff shall keep a correct and itemized account of such disbursements in a book or books, provided for that purpose at the expense of said county, each item of such account shall specify the date on which it was incurred, to whom paid, the place where paid and for what, or the purpose for which it was paid. The sheriff shall also obtain a voucher for each item incurred by him so far as practicable and if any such item exceeds the sum of five dollars ² it shall be duly verified as to its correctness, and the payment thereof, by the affidavit of the person furnishing the same. Such account, together with the vouchers therefor, shall be presented to the board of supervisors of said county during the first session of the annual meeting of said board of supervisors for audit and the amount thereof shall be audited and allowed the same as other county charges. The said account shall be verified by the sheriff the same as other county charges are required by law to be verified. The board of supervisors ³ shall allow the sheriff, his under sheriff and deputy sheriffs necessary and actual ⁴ traveling expenses in criminal cases.

Accounts
and
vouchers.

Audit.

Traveling
expenses
in criminal
cases.

In effect
Jan. 1,
1922.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three.

¹ Remainder of sentence new.

² Formerly "twenty-five dollars."

³ Words "may, in their discretion" omitted.

⁴ Words "and actual" new.

CHAPTER 124

AN ACT to amend the education law, relative to the issuance of school district bonds.

Became a law March 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section four hundred and eighty of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, as last amended by chapter three hundred and eighteen of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

1. For the purpose of giving effect to the provisions of section four hundred and sixty-seven of this chapter, trustees or boards of education are hereby authorized, whenever a tax shall have been voted to be collected in installments, for the purpose of building a new schoolhouse, or building an addition to a schoolhouse, or making additions, alterations or improvements to buildings or structures belonging to the district or city, or for the purchase of a new site or for an addition to a site, or for the purchase of land or buildings for agricultural, athletic, playground, or social center purposes, or for the purchase of furniture, fixtures and equipment for any such buildings and playgrounds,² to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding six per centum, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par. In districts having an aggregate valuation of real property of five hundred thousand dollars or over, no bonds shall be hereafter issued which make the total bonded indebtedness, at any time, exceed fifteen per centum of the aggregate assessed valuation of the real property within the bounds of such school district, unless the resolution authorizing the issue and sale of such bonds, in excess of such amount, shall be adopted by a vote of two-thirds of the qualified electors present and voting on such resolution at the meeting called for such purpose.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1913, ch. 221; L. 1920, ch. 162.

² Words "or for the purchase of furniture, fixtures and equipment for any such buildings and playgrounds," new.

CHAPTER 125

AN ACT to amend the general corporation law, in relation to a corporation dissolved without judicial proceedings, and to confer upon the supreme court authority and jurisdiction to make and give judgments and orders for the adjustment and winding up of the affairs of such corporation, and to appoint a receiver thereof.

Became a law March 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 222
added to
L. 1909,
ch. 28.

Section 1. Article ten of chapter twenty-eight of the laws of nineteen hundred and nine, entitled "An act relating to corporations generally, constituting chapter twenty-three of the consolidated laws," is hereby amended by adding at the end a new section, to be section two hundred and twenty-two, to read as follows:

§ 222. **Jurisdiction of supreme court; receiver.** In the case of a corporation dissolved as provided for in section two hundred and twenty-one, upon the petition of the directors, or a majority of them, at any time surviving and acting, or in a proper case, upon the petition of a creditor or a stockholder, or upon the petition of the attorney general, and upon notice to all directors, and notice to such other persons interested, as to the court may seem proper, to be given personally, or otherwise, as the court may direct, the supreme court is authorized and empowered from time to time to make and give orders and judgments concerning

1. Notice to be given by publication, and otherwise, as the court so directs, of the time and place for the presentation of claims and demands by creditors or persons holding open and subsisting engagements of the corporation, which notice may require all creditors of the corporation to deliver their respective accounts and demands to the directors by a day therein specified, not less than forty days from the first publication of such notice; and which notice may require all persons, holding any open or subsisting contract or engagement of the corporation, to present the same in writing and in detail to the directors at the time and place in such notice specified;

2. The payment in whole, or in part, of claims, and the satisfaction in whole, or in part, of open or subsisting contracts and engagements of the corporation, the retention of moneys for these purposes, and the payments of dividends upon their stock to the stockholders;

3. The filing, presentation and hearing upon, and the allowance or disallowance of, intermediate and final accounts of the directors, and the discharge of the directors from their duties and liabilities as trustees, which accounts and discharge are hereby authorized.

All orders and judgments so given shall be binding upon the corporation, its property and assets, its directors, its creditors,

all persons holding open and subsisting contracts and engagements of the corporation, and the stockholders of the corporation.

The directors, or a majority of them at any time surviving and acting, may petition for their discharge and for the appointment of a receiver to adjust and wind up the then remaining affairs and business of the corporation, and in such case, the court may discharge the directors from their trust and from further duties and responsibilities thereunder, and may appoint a receiver, with all the powers of a permanent receiver, provided for in this chapter and who shall receive compensation at the same rate as a receiver in voluntary dissolution proceedings.

§ 2. This act shall take effect immediately.

CHAPTER 126

AN ACT to amend the tax law, in relation to transfer tax clerks in Monroe county.

Became a law March 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision eight of section two hundred and thirty-four of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter four hundred and twenty-nine of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

L. 1909,
ch. 52,
§ 124,
subd. 8,
as amended
by L. 1913,
ch. 429,
amended.

8. In Monroe county, a transfer tax clerk, one thousand five hundred dollars;¹ and shall be entitled to expend not more than two hundred dollars a year for expenses necessarily incurred in the assessment and collection of taxes under this article.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

In effect
July 1,
1922.

CHAPTER 127

AN ACT to amend the public buildings law, in relation to the board of trustees of the New York State Soldiers' and Sailors' Home.

Became a law March 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty of chapter forty-eight of the laws of nineteen hundred and nine, entitled "An act relating to public

L. 1909,
ch. 48,
§ 60, as
amended by
L. 1921,
ch. 430,
amended.

¹Subd. 8 to here formerly read: "In Monroe county, two transfer tax clerks, one thousand dollars each."

buildings, constituting chapter forty-four of the consolidated laws," as amended by chapter four hundred and thirty of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 60. **Trustees.** The property heretofore conveyed to the state by the corporation known as the Grand Army of the Republic Soldiers' Home of New York, and all property heretofore or hereafter acquired by the state for the same purpose, shall continue to be known as the New York State Soldiers' and Sailors' Home, and shall continue to be under the management and control of a board of trustees. Such board shall consist of ten¹ members, of which the² commander of the department of New York, Grand Army of the Republic and the department commander of the United Spanish War Veterans, shall be ex officio members; and the remaining eight members, who³ shall be reputable citizens of the state, shall be⁴ appointed by the governor, by and with the advice and consent of the senate, ⁵as follows: two for terms expiring February first, nineteen hundred and twenty-three; two for terms expiring February first, nineteen hundred and twenty-four; two for terms expiring February first, nineteen hundred and twenty-five; two for terms expiring February first, nineteen hundred and twenty-six; and after the year nineteen hundred and twenty-two, two each year for terms of four years from February first. No trustee shall receive any compensation for his services as such trustee or otherwise, except the trustee elected to act as secretary who may receive a reasonable annual compensation for his services, to be fixed by the board, with the approval of the comptroller, not exceeding the sum of two hundred and fifty dollars. The board shall annually elect by ballot a president, secretary, treasurer and executive committee, but the office of secretary and treasurer may be held by one trustee or separately as the board may determine. The board may be known as the board of trustees of the New York State Soldiers' and Sailors' Home.

Trustees
heretofore
appointed.

§ 2. Appointive members of the board of trustees of the New York State Soldiers' and Sailors' Home heretofore appointed shall hold office until, and their terms shall expire upon, the appointment of members of such board pursuant to this act.

§ 3. This act shall take effect immediately.

¹ Words "such board shall consist of ten" substituted for words "consisting of twelve."

² Words "governor, attorney-general, the" omitted.

³ Word "who" new.

⁴ Words "shall be" new.

⁵ Remainder of sentence formerly read: "and each shall hold office for three years."

CHAPTER 128

AN ACT to amend the state finance law, in relation to creating a department of purchase, defining its powers and duties, and repealing article seven of such chapter relating to the central purchase of supplies, and making an appropriation for the department of purchase.

Became a law March 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article seven of chapter fifty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to state finance, constituting chapter fifty-six of the consolidated laws," as added by chapter four hundred of the laws of nineteen hundred and eighteen, and as the title of such article and sections thereof were amended by chapter three hundred and thirty-six of the laws of nineteen hundred and twenty-one, is hereby repealed and a new article seven is inserted to read as follows:

L. 1909, ch. 58, art. 7, as added by L. 1918, ch. 400, and amended by L. 1921, ch. 234, repealed; new art. 7 added.

ARTICLE 7.

Department of Purchase.

- Section 110. Department of purchase; superintendent of purchase; assistants.
111. Offices of department.
 112. Seal of department.
 113. Expenses.
 114. Abolition of office of fiscal supervisor; transfer of powers and duties.
 115. Transfer of officers and employees of existing departments.
 116. Transfer of property and records.
 117. General powers of department.
 118. Rules.
 119. Requisitions; contingent fund.
 120. Purchase and delivery of materials, equipment and supplies.
 121. Estimates for personal service by heads of institutions.
 122. Investigations.
 123. Auxiliary powers.
 124. Letting of contracts.
 125. Saving clause.
 126. Exemptions.
 127. Report.

§ 110. Department of purchase; superintendent of purchase; assistants. A state department of purchase is hereby created, the head of which shall be the superintendent of purchase. Such

superintendent shall be appointed by the governor, by and with the advice and consent of the senate, for a term of five years. He shall receive an annual salary of ten thousand dollars. He may appoint such deputies, assistants and other employees as may be needed, and shall prescribe their powers and duties and fix their compensation within amounts appropriated therefor.

§ 111. **Office of department.** The principal office of the department shall be in the city of Albany in rooms to be designated by the trustees of public buildings as provided by law.

§ 112. **Seal of department.** The department shall have an official seal to be prepared and furnished by the secretary of state as provided by law. Such seal shall be used for such purposes as may be prescribed by the superintendent or by rule of the department.

§ 113. **Expenses.** The reasonable and necessary traveling and other expenses, within or without the state, of the superintendent, and of the officers and employees of the department, while actually engaged in the performance of their duties outside of the city of Albany, or if any such officer or employee be in charge of or regularly employed at a branch office of the department, such reasonable traveling and other expenses outside of the place in which such branch office is located, shall be paid by the state treasurer upon the audit of the comptroller upon vouchers approved by the superintendent.

§ 114. **Abolition of office of fiscal supervisor; transfer of powers and duties.** The office of fiscal supervisor of state charities shall be abolished on July first, nineteen hundred and twenty-two. Thereafter the powers and duties of such fiscal supervisor under any provision of law not inconsistent with this article shall be exercised and performed by the superintendent of purchase.

§ 115. **Transfer of officers and employees of existing departments.** The officers and employees in the office of the fiscal supervisor, and such of the employees of the hospital commission and of the superintendent of state prisons as the head of the department shall certify are no longer needed therein by reason of the changes in procedure effected by this article, shall be eligible for transfer, without examination, to the department of purchase. Any officer or employee so transferred, who is a member of any retirement or pension system, other than the state system provided for by article four of the civil service law, upon making the required contributions and otherwise complying with all the conditions of such special system, may continue as a member thereof with all the rights and privileges thereunder, in the same manner as if such transfer had not been made.

§ 116. **Transfer of property and records.** The property, records, books, papers and documents of the office of the fiscal supervisor shall be delivered to and belong to the department of purchase. The superintendent of purchase also may require the delivery to the department of purchase of such of the records, books, papers and documents of the office of the superintendent

of state prisons and of the state hospital commission as pertain to the functions vested in the superintendent of purchase by this article.

§ 117. **General powers of department.** In the manner provided by this chapter and the rules of the department adopted pursuant thereto, the department shall have jurisdiction and control of the purchase of materials, equipment and supplies required by the state, or by any state department, board, commission, officer or institution, except the legislature, or either house thereof, or a legislative commission or committee; and all provisions of statute authorizing or directing the purchase of any materials, equipment or supplies by any state department, board, commission, office or institution, or prescribing the manner of such purchase, are hereby repealed. Except as provided in this article, any or all materials, equipment and supplies needed by one or more departments, boards, commissions, officers or institutions of the state may be directly purchased or contracted for by the department of purchase, as may be determined, from time to time, by rules adopted pursuant to this article.

§ 118. **Rules.** The superintendent, on or before the first day of July, nineteen hundred and twenty-two, shall adopt and may thereafter amend and repeal rules for the following purposes:

1. Authorizing state departments, boards, commissions, officers and institutions to purchase materials, equipment and supplies, limiting and defining their powers in relation thereto, and prescribing the manner in which such purchases shall be made;

2. Determining the state institutions to which advances may be made by the state treasurer for the purchase of materials, equipment and supplies pursuant to requisitions and estimates approved by the superintendent. Such a rule may be either general or may apply to one or more state institutions;

3. Prescribing the materials, equipment and supplies which shall be directly purchased or contracted by the department of supplies, and the manner in which such materials, equipment and supplies shall be delivered or distributed;

4. Controlling the storage and distribution of materials, equipment and supplies;

5. Prescribing the times for making requisitions and estimates, the periods for which they are to be made, the form thereof, and the manner of authentication;

6. Requiring reports by state institutions of stock of material, equipment and supplies on hand and prescribing the form of such reports;

7. Providing for such other matters as may be necessary to give effect to the foregoing rules and the provisions of this article.

§ 119. **Requisitions; contingent fund.** Except as provided in this article, materials, equipment and supplies shall be purchased by or furnished to a state department, board, commission, officer or institution only upon requisition to the department of purchase; and any estimate required by statute to be made to a department, board, commission or officer other than the department

of purchase, shall not include materials, equipment and supplies which are required by this article to be procured upon requisition to the department of purchase. The superintendent shall prescribe the form, contents, number and disposition of requisitions. The superintendent shall examine each such requisition and may revise it either as to quantity, quality or estimated cost; but revision as to quality shall be only in accordance with the standards established by the bureau of standards, and in the case of requisitions from state hospitals if revised in reference to wearing apparel, foods or medical supplies and equipment the quality shall not be inferior to the grade approved or the quantity less than that determined by the hospital commission. In the case of institutional requisitions he shall certify that he has carefully examined the same and that the materials, equipment and supplies enumerated therein, as revised and approved by him, are actually required for the institution, and shall thereupon present such requisition and certificate to the comptroller. The superintendent shall indicate which of the materials, equipment and supplies, if any, are directly purchased or contracted for by the department of purchase, and also shall certify to the comptroller what, if any, advancement shall be made to an institution for the purchase of such materials, equipment and supplies as are not directly purchased or contracted for by the department of purchase. The comptroller shall issue his warrant for the amount of any advancement so authorized by the superintendent of purchase, or of such part thereof as may be required, payable from the proper appropriation. If any appropriation be available therefor, the superintendent may authorize the inclusion in such requisition of a specified sum as a contingent fund for the period covered by the requisition. The superintendent, by order, may authorize any state department, board, commission, officer or institution to purchase specified materials, equipment or supplies to a stated amount and for a stated period without filing a requisition therefor.

§ 120. **Purchase and delivery of materials, equipment and supplies.** Materials, equipment and supplies directly purchased or contracted for by the department of purchase shall be delivered, by such department or by the contractor, to the department, board, commission, officer or institution by which or whom the same are to be used, from time to time as required. If the department of purchase shall have made a contract for the purchase of certain materials, equipment and supplies for one or more state departments, boards, commissions, officers or institutions, such materials, equipment and supplies shall be procured only from the contractor, except as otherwise provided by rule or order of the superintendent. Materials, equipment and supplies for a department, board, commission, officer or institution, which are not directly purchased or contracted for by the department of purchase may be purchased or contracted for by such department, board, commission, officer or institution. If such requisition for such materials, equipment and supplies shall have been approved

• by the superintendent of purchase, such purchase or contract shall be made only in accordance therewith.

§ 121. **Estimates for personal service by heads of institutions.** On and after July first, nineteen hundred and twenty-two, estimates required by statute to be made by the board of managers, treasurer, superintendent, agent and warden or other head of a state institution to the superintendent of state prisons, state hospital commission or fiscal supervisor of state charities shall contain only estimates pertaining to personal service and such other purposes as are not included in requisitions required to be presented to the superintendent of purchase.

§ 122. **Investigations.** The superintendent of purchase may make, or cause to be made by his authorized representatives, any investigation which he may deem proper for acquiring the necessary information for the exercise of his powers and duties under this article. For such purposes he may subpoena and compel the attendance of witnesses before him or a representative designated by him, and may compel the production of books, papers, records or documents. The superintendent or his authorized representative may take and hear proofs and testimony and for that purpose the superintendent or his representative may administer oaths.

§ 123. **Auxiliary powers.** In aid of any powers vested in the superintendent under this article, the superintendent or his duly authorized representative

1. Shall have access at all reasonable times to offices of state officers, boards, commissions and departments and to state institutions and public works;

2. May examine all books, papers, records and documents in any such office or institution as pertain directly or indirectly to the purchase, control or distribution of materials, supplies or equipment;

3. May require any state officer, board, commission, head of a department or officer of a state institution to furnish such data, information or statement as may be necessary.

§ 124. **Letting of contracts.** Contracts with the superintendent of purchase or with a state department, board, commission, officer or institution, shall be let to the lowest responsible bidder, taking into consideration the qualities of the articles proposed to be supplied, their conformity with the specifications, the purposes for which required and the times of delivery. Bids shall be received only in accordance with standards and standard specifications, if any, adopted for such materials, equipment and supplies by the bureau of standards of the board of estimate and control. All bids may be rejected. The superintendent shall determine the purpose for which such contracts shall be let. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall after the letting of the contract be open to public inspection. Bond for the proper performance of each contract may be required or waived in the discretion of the superintendent. The superin-

tendent may purchase materials, equipment and supplies to an amount not exceeding one thousand dollars without competitive bidding, and may by rule prescribing the amount not exceeding one thousand dollars authorize purchases of specified materials, equipment and supplies by any state department, board, commission, officer or institution. Neither the superintendent of purchase nor any officer or employee of the department of purchase shall be financially interested or have any personal beneficial interest either directly or indirectly in the purchase of any materials, equipment or supplies under this article, nor in any firm, corporation, partnership or association furnishing or bidding on any such materials and supplies.

§ 125. **Saving clause.** Nothing in this article contained shall be deemed to relieve the superintendent of purchase or any state department, board, commission, officer or institution from purchasing materials, supplies and equipment of the different kinds required, from the prison department in accordance with law, provided such materials, supplies and equipment conform to the standards and specifications established by the bureau of standards of the board of estimate and control. The department of purchase shall be deemed a continuation of the central supply committee and of the board of estimate and control for the purpose of rights and obligations arising from contracts heretofore made by such committee or board.

§ 126. **Exemptions.** Telephone service and electric light and power service and such materials, equipment and supplies as are an incident to the performance of a contract for labor and material shall be exempted from the provisions of this article, authorizing the purchase or contracting for materials, equipment and supplies by the department of purchase. The superintendent of purchase may authorize a state department, board, commission, officer or institution to purchase specified materials, equipment and supplies for immediate delivery to meet exigencies arising from unforeseen causes, including delays by contractors, delays in transportation and unforeseen volume of work in any department, in the open market and without requisition or estimate.

§ 127. **Report.** The superintendent of purchase shall submit annually to the legislature a report of the proceedings of the department of purchase during the preceding calendar year, and may include in such report such recommendations in relation to remedial legislation as he deems proper.

Appropriation.

Tentative segregation of amount appropriated.

§ 2. For the purposes of this act the sum of one hundred thousand dollars (\$100,000) is hereby appropriated, to take effect immediately, and any appropriations for personal service, maintenance and operation of the office of fiscal supervisor of state charities for the fiscal year beginning July first, nineteen hundred and twenty-two, are hereby made available, without itemization, for the department of purchase. On or before June first, nineteen hundred and twenty-two, the superintendent of purchase shall file with the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means

committee a tentative segregation of the amount hereby appropriated or reappropriated, and before any moneys shall be paid out of this fund by the state treasurer on the warrant of the comptroller such segregation shall have their approval. No change shall be made in this tentative segregation during the fiscal year commencing July first, nineteen hundred and twenty-two, without the approval of the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. The amounts hereby appropriated or reappropriated shall be paid out by the treasurer on the warrant of the comptroller on the order of the superintendent of purchase.

§ 3. The provisions of this act creating the department of purchase and providing for its organization and for the appointment of the superintendent of purchase, and authorizing the adoption of rules, and the appropriation of one hundred thousand dollars (\$100,000) as provided by the last preceding section, shall take effect immediately; the remainder of the act shall take effect July first, nineteen hundred and twenty-two.

Act when
to take
effect.

CHAPTER 129

AN ACT to authorize the city of Yonkers to issue refunding bonds.

Accepted by the City.

Became a law March 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of Yonkers is hereby authorized to issue refunding bonds for the purpose of refunding the bonds of the city which are now outstanding; to the extent of the following amount of such bonds which are payable in each of the following years, respectively:

Issuance
of refund-
ing bonds
authorized.

The amount of three hundred and twenty thousand dollars in the year nineteen hundred and twenty-two;

Specified
amounts in
certain
years.

The amount of three hundred and sixteen thousand dollars in the year nineteen hundred and twenty-three;

The amount of three hundred and sixteen thousand dollars in the year nineteen hundred and twenty-four;

The amount of three hundred and six thousand dollars in the year nineteen hundred and twenty-five;

The amount of three hundred thousand dollars in the year nineteen hundred and twenty-six;

The amount of three hundred and one thousand dollars in the year nineteen hundred and twenty-seven;

The amount of three hundred and one thousand dollars in the year nineteen hundred and twenty-eight;

The amount of two hundred and seventy-seven thousand dollars in the year nineteen hundred and twenty-nine.

Bonds;
time of
issue,
interest,
maturity,
etc.

§ 2. Such refunding bonds may be issued from time to time as the money is required to pay the bonds to be refunded. Each issue thereof shall bear interest at not exceeding six per centum per annum, and shall be payable in annual installments, the last of which shall mature in not more than twenty years from the date of the bonds of such issue. No such annual installment of any issue shall be more than fifty per centum greater than the amount of any other installment of such issue which matures previously.

Bonds may
recite this
act;
effect.

§ 3. The ordinances authorizing such bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act and such recital if so authorized shall be conclusive evidence of the regularity of the issue of such bonds and of their validity. Such ordinances need not provide for any tax for the payment of the principal or interest thereof.

No tax.

Appropri-
ation of
sums re-
quired.

§ 4. In each year after the issuance of any bonds under this act the annual estimate or budget of the city shall contain a sum sufficient to pay the principal and interest of such bonds which shall come due in such year, and such sum shall be appropriated therein for such purpose.

Applica-
tion of
proceeds.

§ 5. The proceeds of the sale of such bonds shall be applied only to the cost of issuing and selling them and either to the payment of the bonds to be refunded thereby or to payment of any indebtedness incurred to pay the bonds so to be refunded.

Applica-
tion of
certain
laws.

§ 6. Except as otherwise herein provided, the laws authorizing and regulating the issuance of bonds of such city shall apply to the issuance of the bonds authorized by this act.

No implied
repeals.

§ 7. This act, or any of its sections or provisions, shall not be deemed amended or repealed by any subsequent act, general, special or local, unless this act is specifically referred to.

§ 8. This act shall take effect immediately.

CHAPTER 130

AN ACT to amend the banking law in relation to declaration of dividends by savings banks.

Became a law March 16, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
§ 256,
subd. 4,
¶ (c)
amended.

Section 1. Paragraph (c) of subdivision four of section two hundred and fifty-six of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

(c) Declare, credit or pay dividends on any deposit for a longer period than the same has been deposited; provided, how-

ever, that deposits made not later than the tenth business day of the month commencing any quarterly or semi-annual dividend period or the third business day of any month, or withdrawn upon one of the last three business days of the month ending any quarterly or¹ semi-annual dividend period, may have dividends declared upon them for the whole of the period or month when they were so deposited or withdrawn; and provided further that, if the by-laws so provide, accounts closed between dividend periods may be credited with dividends at the rate of the last dividend, computing from the last dividend period to the date when closed.

§ 2. This act shall take effect immediately.

CHAPTER 131

AN ACT to amend the civil service law, in relation to transfers.

Became a law March 16, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixteen of chapter fifteen of the laws of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," is hereby amended to read as follows:

§ 16. **Promotion; transfer; reinstatement; reduction.** Vacancies in positions in the competitive class shall be filled, so far as practicable, by promotion from among persons holding positions in a lower grade in the department, office, or institution in which the vacancy exists. Promotion shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his previous service, due weight being given to seniority. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules in force hereunder beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion. No promotion, transfer or reinstatement shall be made from a position in one class to a position in another class unless the same be specially authorized by the state or municipal commission, nor shall a person be promoted or transferred to a position for original entrance to which there is required by this chapter or the rules an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person, unless he shall have passed the examination or attained a place upon the eligible list for such higher posi-

L. 1909,
ch. 15,
§ 16
amended.

¹ Words "quarterly or" new.

tion. ¹ Persons holding positions in the competitive class, having been appointed or promoted thereto after a competitive examination, in the service of a city wholly including within its limits two or more counties, or in the county service or in the state service where the compensation of such position is paid directly from the treasury of such city, may be transferred to similar and corresponding positions interchangeably. Such transfer shall be made only with the approval of both the state civil service commission and the municipal civil service commission of such city.

§ 2. This act shall take effect immediately.

CHAPTER 132

AN ACT to amend the Lackawanna city charter, in relation to the notice of receiving taxes and collection thereof.

Accepted by the City.

Became a law March 17, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 574,
§ 235
amended.

Section 1. Section two hundred and thirty-five of chapter five hundred and seventy-four of the laws of nineteen hundred and nine, entitled "An act to incorporate the city of Lackawanna," is hereby amended to read as follows:

§ 235. [Issue of tax roll and warrant to treasurer.]^{1a} The city clerk, under the direction of the common council, shall extend and apportion the taxes to be collected on the assessment roll delivered to him, and shall forthwith file the same in his office and shall make true copies of the same with the taxes to be collected, extended and apportioned, and shall certify such copies to be corrected duplicate city rolls of state, county and city taxes as the case may be. Such rolls shall then, or before the fifteenth day of January in such year, be delivered to the treasurer of the city with a warrant annexed, under the seal of the city, commanding him to receive, levy and collect the several sums in the roll specified as assessed against the person or property therein mentioned or described, with such percentage of penalty and interest as is in this act provided, in the manner provided by law for the collection and levying of county taxes by town collectors, and with the additional powers conferred by this act.² From the time of the receipt of the tax roll and warrant by the treasurer, all taxes assessed and levied upon any real estate shall be a lien upon such real estate for the amount thereof, together with percentages and interest until the same shall be fully paid.

¹ Remainder of section new.

^{1a} Section heading restored by editor.

² Remainder of sentence omitted which read: "and return this warrant and roll to the city clerk within ninety days after the date of the warrant."

§ 2. Section two hundred and thirty-six of chapter five hundred and seventy-four of the laws of nineteen hundred and nine is hereby amended to read as follows: ^{§ 236 amended.}

§ 236. [Notice of payment of taxes.] ⁴ Immediately on the delivery of the city tax roll and warrant to the treasurer he shall publish a notice in the official newspaper of the city that he will attend at his office with said roll and warrant. That the payment of one-half of the taxes or assessments on the general city tax rolls will be made to the treasurer at any time before the expiration of forty days next after the publication of the said notice, Sunday and legal holidays excepted without addition; that the payment of the final one-half of the taxes or assessments upon the general tax roll will be made to the treasurer prior to September first following without addition; at expiration of the said forty days from publication, an addition of one per centum upon the first half of every unpaid tax or assessment on the general city tax rolls will be added thereto; that an addition of one-half of one per centum to such first half of every unpaid tax will be made every month thereafter until the same is paid; that on the first day of the month of September following an addition of one per centum upon the final one-half of every unpaid city tax will be added thereto; that an addition of one-half of one per centum to the final one-half of every unpaid city tax will be made every month after said first day of September until the same is paid. On the first day of November in each year an extra addition of five per centum upon every unpaid tax or assessment will be made; and such additions, interest and fees shall be charged accordingly.

§ 3. Section two hundred and thirty-eight of chapter five hundred and seventy-four of the laws of nineteen hundred and nine is hereby amended to read as follows: ^{§ 238 amended}

§ 238. [Notice of unpaid taxes and demand of payment.] ⁵ If any such tax shall remain unpaid for thirty days after September first,⁶ the treasurer shall forthwith serve or cause to be served upon the persons against whom such tax remains charged a written notice requiring him to pay the same to the treasurer within thirty days from the service of such notice. Such notice may be served upon any such person personally, or by leaving the same at his residence in said city, or by depositing the same in the post-office in said city, properly inclosed in a postpaid wrapper, directed to him at his reputed place of residence. It shall not be necessary to make any other demand for payment of said tax.

§ 4. Section two hundred and thirty-nine of chapter five hundred and seventy-four of the laws of nineteen hundred and nine is hereby amended to read as follows: ^{§ 239 amended.}

⁴Section materially amended.

⁵Section heading inserted by editor.

⁶Section heading restored by editor.

⁷Words "for thirty days after September first" substituted for words "after the expiration of thirty days from first publication of the notice heretofore specified."

§ 239. [Collection of tax by civil action.]⁷ The treasurer is hereby authorized and empowered to recover by action in any court of competent jurisdiction, and in the corporate name of the city, the amount of every tax remaining unpaid after the expiration of ninety days from September first,⁸ with the additions and fees unpaid thereon, and to recover judgment therefor, together with ten per centum thereof and interest at six per centum per annum on the whole amount thereof from the date of such publication, and the costs and expenses of the action. The city court shall have jurisdiction to try such action when the sum claimed does not exceed one thousand dollars. A transcript of the judgment obtained in such action may be filed, and such judgment docketed in the office of the clerk of Erie county, and it shall, however small the amount, thereupon become a judgment of the county court of said county, and a lien to the amount of such judgment, upon all real estate of the judgment debtor, situated in said county, and shall have the same priority over any other lien or incumbrance upon or transfer of the property charged with the tax for which such action was brought, as the lien of the tax sought to be recovered in said action. Upon any judgment recovered for said unpaid taxes and docketed in said county clerk's office, execution may be issued and collected as provided by law, and all the provisions of law in reference to sale and redemption of real estate on execution, or to proceedings supplementary to execution, shall apply to sales, redemption or such proceedings which may be had under this act.

§ 5. This act shall take effect immediately.

CHAPTER 133

AN ACT to incorporate The Aquinas Institute of Rochester.

Became a law March 18, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corporators. Section 1. Right Reverend Thomas F. Hickey, bishop of the Roman Catholic diocese of Rochester, Right Reverend Monsignor Dennis J. Curran, vicar general of the Roman Catholic diocese of Rochester, Reverend Mathias J. Hargather, Reverend John F. Boppel, Reverend George V. Burns, Reverend John Francis O'Hern, Reverend Joseph S. Cameron, James G. Comerford, John Connors, Augustine J. Cunningham, Harry C. D'Annunzio, Eugene J. Dwyer, John G. Elbs, Thomas W. Finucane, Jeremiah G. Hickey, Frank X. Kelly, J. Adam Kreag, James M. Mangan, Michael H. Shea, Peter A. Vay and Francis J. Yawman, all of

⁷ Section heading restored by editor.

⁸ Words "September first" substituted for words "the first publication of the notice heretofore specified."

Rochester, New York, and their successors duly chosen and appointed as hereinafter provided are hereby constituted a body corporate under the name of The Aquinas Institute of Rochester. Said corporation shall have perpetual succession, and said Right Reverend Thomas F. Hickey, bishop of the Roman Catholic diocese of Rochester, Right Reverend Monsignor Dennis J. Curran, vicar general of the Roman Catholic diocese of Rochester, Reverend Mathias J. Hargather, Reverend John F. Boppel, Reverend George V. Burns, Reverend John Francis O'Hern, Reverend Joseph S. Cameron, James G. Comerford, John Connors, Augustine J. Cunningham, Harry C. D'Annunzio, Eugene J. Dwyer, John G. Elbs, Thomas W. Finucane, Jeremiah G. Hickey, Frank X. Kelly, J. Adam Kreag, James M. Mangan, Michael H. Shea, Peter A. Vay and Francis J. Yawman, all of Rochester, New York, are hereby constituted the board of trustees thereof. The bishop and the vicar general of the Roman Catholic diocese of Rochester and their successors in office shall by virtue of their offices always be trustees of the said corporation. In case of a vacancy in the said board of trustees by death, resignation or otherwise, the survivors or remainder of said trustees shall fill such vacancy, subject to the approval of the bishop of the Roman Catholic diocese of Rochester and his successor in office.

§ 2. The bishop of the Roman Catholic diocese of Rochester shall by virtue of his office be the president of said corporation, and said board of trustees shall select from their number a vice-president, a secretary and treasurer and a majority of said trustees shall constitute a quorum for the transaction of business.

No act or proceeding of the trustees of the said corporation shall be valid without the sanction of the bishop of the Roman Catholic diocese of Rochester in writing, or in case of his absence or inability to act, without the sanction in writing of the administrator of the Roman Catholic diocese of Rochester.

§ 3. The objects of the corporation shall be the religious, moral, secular, physical and general training, instruction and education of students; to conduct instruction in secondary education in the academic and business courses; to conduct a college or university for higher education; to teach such branches of learning, science and knowledge as the trustees may deem advisable; to confer literary, scientific, technical and professional degrees, and in testimony thereof award certificates and diplomas; the promotion of science, literature, art, history and other departments of knowledge.

§ 4. Said corporation shall have all the powers and authority conferred on educational corporations incorporated under the University of the State of New York, and shall have all the powers incident and necessary to carry out and perform the foregoing objects of the corporation, and may take, acquire and hold real or personal property or both by purchase, gift, grant, bequest or devise, or otherwise. Except as to property rights conferred by this act said corporation shall be subject to the provisions of the education law controlling institutions of a similar nature incorporated by the regents of the university.

Corporate
name.Perpetual
succession;
trustees.

Vacancies.

Officers.

Quorum.

Sanction of
bishop.

Objects.

Corporate
powers.

Sale, mortgage or lease of real property.

§ 5. Said corporation shall not sell, mortgage or lease any of its real property unless such sale, mortgage or lease is authorized by the bishop of the Roman Catholic diocese of Rochester, or in case of his inability to act, by the administrator of the Roman Catholic diocese of Rochester, and unless the same is also authorized by a vote of two-thirds of the board of trustees of the corporation at a meeting called for that purpose. In case such sale, mortgage or lease is so authorized by the said bishop, or in case of his inability to act by the said administrator, and by a vote of two-thirds of said trustees, the said trustees shall petition the supreme court of the state of New York for leave to sell, mortgage or lease its said real property, and no such sale, mortgage or lease of real property shall be valid excepting upon an order of a justice of the supreme court of the state of New York approving the same.

Conveyance of property to other corporations.

§ 6. Said corporation with the consent of the court may convey its real and personal property, or both, with the consent of the bishop of the Roman Catholic diocese of Rochester, or in case of his inability to act, with the consent of said administrator, and the concurring vote of two-thirds of the board of trustees thereof, with or without consideration to another corporation created for the same or kindred purposes or to a religious corporation of the Roman Catholic faith.

§ 7. This act shall take effect immediately.

CHAPTER 134

AN ACT to amend chapter four hundred and seventy-seven of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Elmira," in relation to fire prevention.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1906, ch. 477, § 173, as added by L. 1915, ch. 377, repealed; new § 173 added.

Regulation of building and location of industries.

Section 1. Section one hundred and seventy-three of chapter four hundred and seventy-seven of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Elmira," as added by chapter three hundred and seventy-seven of the laws of nineteen hundred and fifteen, is hereby repealed and a new section inserted in place thereof to read as follows:

§ 173. No wall, structure, building, part or parts thereof shall hereafter be built, constructed, altered, repaired or removed in said city within the limits of the boundaries of the city of Elmira as at present constituted, which limits and boundaries are hereby fixed and determined to be the fire limits of the city of Elmira, except in conformity with the provisions of this act; and the said board of fire commissioners shall have power within said limits to direct and provide that every such wall, building, struc-

ture, part or parts thereof which shall hereafter be constructed, built, altered, repaired or removed within said limits shall be constructed of brick or stone or concrete or other material approved by the board of fire commissioners, and the said board of fire commissioners shall have the full power to regulate and restrict the location of trades and industries and the location of buildings designed for said purposes and shall divide the city into such districts and shall prescribe for each district the location of the trades and industries which shall be excluded and the uses for which said buildings shall not be repaired, altered or erected.

Such regulations shall be designed to promote the public safety and general welfare and shall be made with reasonable consideration among other things to the character of the district, its full suitability for said uses, the effect on insurance rates within said districts and the effect on the fire hazards within said districts.

§ 2. Section one hundred and seventy-four of such act, as amended by chapter three hundred and seventy-seven of the laws of nineteen hundred and fifteen, is hereby repealed and a new section inserted in place thereof to read as follows:

§ 174. In addition to all other powers conferred by article eleven of this chapter, the said board of fire commissioners shall have and exercise the following powers and duties:

1. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

2. To regulate the construction of chimneys, flues, stove pipes and other conductors of smoke and prevent the dangerous construction or condition of chimneys, fire places, hearth stones, stove pipes, ovens, boilers and apparatus used in any building or manufactory in said city.

3. To regulate the construction of all balconies, galleries, overhangs, projections extending from buildings over the line of streets and waterways in the said city of Elmira and to cause the existing balconies, galleries, overhangs, projections extending over the line of streets which it deems hazardous to be removed or placed in a safe and secure condition in accordance with plans approved by them.

4. To regulate and prevent the use of fireworks within the city limits.

5. To compel, in business sections and where necessary to protect life and aid in fighting fires, the owner and owners of houses and other buildings to have scuttles in roofs and stairs and ladders leading to the same.

6. To keep away from the vicinity of any fire all idle and suspicious persons and compel all officers of the city and other persons to aid in the extinguishment of fires and in the preservation of articles exposed to danger thereat.

7. To establish such regulations for the prevention and extinguishment of fires and the safety of occupants of buildings as they may deem expedient.

§ 174, as amended by L. 1915, ch. 377, repealed; new § 174 added. Additional powers of fire commissioners.

8. To compel the construction of suitable fire escapes and means of egress from all theatres and places of amusement, hotels, churches, factories and also all places where more than two families reside more than two stories in height.

9. It shall have power at all reasonable times, and it shall be its duty, to enter into and examine all buildings, lots, yards and premises in the daytime and to inspect all places therein to ascertain how ashes, rubbish, waste paper and other combustible materials are kept and to order their removal.

10. To direct obedience to all the provisions of this act and rules and regulations of the board of fire commissioners relating to the prevention of fires and to the construction, alteration, removal and repair of all buildings in said city.

11. Provided, however, that before any rules of the fire commissioners relative to the repair, alteration, construction, reconstruction or removal of buildings and the location of trades and industries and buildings, and the division of the city into districts for those purposes shall become effective, said rules shall be approved and adopted by the common council in the same manner as ordinances, and upon said adoption they shall have the same force and effect as ordinances.

Right to enter premises and repair or remove hazardous structures or materials.

Notice to owner or occupant.

For the purpose of carrying into full effect provisions of this section, the board of fire commissioners are hereby empowered and authorized and it shall be its duty to enter upon any premises for the purpose of remedying the hazardous conditions hereinabove mentioned, and said board of fire commissioners is hereby authorized to make the necessary repairs, apply the necessary remedies and to cause the removal of the structure and materials which are hazardous, provided, however, that before proceeding hereunder the board of fire commissioners shall cause a notice to be personally served on the owner of the premises or, if the owner cannot with due diligence be found, upon the occupant. Said notice shall specify that in the determination of the board of fire commissioners a condition exists in such premises which is hazardous, which condition shall be briefly described. That said condition must be repaired, remedied, altered or removed in accordance with the plans to be submitted by said owner or occupant approved by the board of fire commissioners or that the owner shall show cause why such condition should not be remedied or removed. Said notice must be served at least five days before the time specified for such removal or the time specified in said notice as the time when such cause for not complying with the determination of the board of fire commissioners shall be shown.

Hearing.

At the time specified for said hearing if the condition is not remedied or removal made the commissioners shall proceed with the hearing of the proofs of the owner or occupant of the premises involved and make its decision in writing, which shall be within five days thereafter.

Work to be done by owner or fire commissioner.

In case of the failure of the party to appear or in case of the determination of the commission that a hazardous condition exists

which should be remedied by repair, removal, alteration or reconstruction, the owner shall forthwith proceed with the repair, removal, alteration or reconstruction in accordance with plans submitted by him to the board of fire commissioners and upon non-compliance with the order of the board of fire commissioners in that respect said board of fire commissioners may immediately enter upon the premises of the owner or occupant involved and make such repairs, removal, alteration or reconstruction as hereinabove provided.

The board of fire commissioners shall as soon as practicable after the completion of the work of reconstruction, repair, alteration or removal is done under the direction of the board of fire commissioners ascertain the cost of such operations and shall assess the same against the owner of the premises.

Assessment of cost against owner.

Said board of fire commissioners shall deliver the statement of ascertainment and assessment to the common council which shall thereupon give notice in one daily morning newspaper and one daily evening newspaper that the same has been delivered to it and that it will, on a day certain therein specified, which shall be at least five days after the publication of said notice, consider the same for the purpose of examination.

At the time specified any person interested may appear before the common council and apply to have such assessment altered or corrected as justice may require. The common council may thereupon alter and correct and confirm such assessment without further notice.

Correction of assessment.

The amount of such assessment shall be a lien upon the real property upon which it is assessed and the common council after confirming said assessment shall forthwith transfer the same or a copy thereof certified by the city clerk to the city chamberlain. Any amount so assessed or any part thereof remaining unpaid at any time with the accumulated interest thereon as herein provided may be paid at any time.

Lien and time of payment.

In case any assessment shall have become due and payable, or any part thereof remain unpaid, it shall be the duty of the city chamberlain to report the same to the city clerk who shall deliver the report to the common council. The common council may thereupon issue its warrant under the hands of the mayor and city clerk and the corporate seal of the city for the collection of such due and unpaid assessment, or the part thereof remaining unpaid, to the city chamberlain who shall proceed to collect the same out of the personal property of the corporation or person or persons so assessed within sixty days after the receipt of such warrant by said chamberlain. Said chamberlain shall proceed under said warrant the same as a sheriff proceeds under an execution against the personal property of a judgment debtor. If the chamberlain shall return said warrant at the expiration of sixty days unsatisfied in whole or in part, said assessment, or the part thereof remaining unpaid, or in case no warrant for any due and unpaid assessment be issued, such due and unpaid assessment shall likewise be enforced as a lien in the following manner:

Collection.

Sale of premises.

The chief assessor or clerk in preparing and extending the next succeeding assessment roll for general city taxes shall insert therein against the property on which it was assessed the amount of such unpaid assessment with interest thereon at the rate of ten per centum per annum from the time when due to the fifteenth day of April thereafter. Such amount shall be in a separate column from the general city tax to be levied for the current fiscal year and the entire amount shall be collected as hereinbefore provided with reference to general city taxes; and if such amount is not paid the land or the property assessed shall be sold therefor as hereinbefore provided in sections fifty-six and fifty-seven and said sale and the effect thereof and the rights thereunder shall be controlled by the provisions hereinbefore relative to the sale of lands for general city taxes in so far as the same may be applicable thereto. The rules and regulations to be adopted by the said board of fire commissioners under the provisions of this act shall be published in the same manner as is now provided by this act or for the publication of city ordinances adopted by the common council.

Rules to be published.

§ 175, as added by L. 1915, ch. 377, repealed; new § 175 added.

Statement of proposed construction or repair of building to be submitted to fire commissioners.

§ 3. Section one hundred and seventy-five of such act, as added by chapter three hundred and seventy-seven of the laws of nineteen hundred and fifteen, is hereby repealed and a new section inserted in place thereof to read as follows:

§ 175. Before the erection, construction, alteration, removal or repair of any building or part of any building within the limits of the city of Elmira is commenced, the owner shall submit to the board of fire commissioners a detailed statement in writing of the specifications of such proposed building, alteration, erection, removal or repair which shall be accompanied by a statement in writing sworn to before an officer duly authorized to take proof and acknowledgment of deeds, giving the full name and residence of the owner or each of the owners of said building or proposed building, with street and number where same is to be removed. If such erection, construction, alteration, removal or repair is proposed to be made by any other person than the owner or owners of the land in fee, the person or persons intending to make such erection, alteration or repair shall accompany said detailed statement of specifications with the statement in writing sworn to as aforesaid, giving the full name and residence of the owner or owners of the land and also of every person interested in said building or proposed building either as owners, lessee or in any representative capacity, which sworn statement may be made by each of the persons hereinbefore required to make the same, together with a statement of the purposes for which said building, erection, construction, alteration, removal or repair is made, and the same with a copy of said specifications shall be kept on file in the office of the board of fire commissioners and the erection, construction, alteration, removal or repair of said building or any part thereof shall not be commenced or proceeded with until said sworn statement shall have been so filed and the plans and specifications have been approved by the board of fire commis-

sioners. Any false statement on a material point in any sworn statement submitted in pursuance of the provisions of this section shall be deemed perjury and shall be punishable as such.

§ 4. Such act is hereby amended by inserting therein a new section, to be section one hundred and seventy-six, to read as follows: § 176 added.

§ 176. The board of fire commissioners shall have full power in passing upon any question relative to the location of buildings, the purposes for which they are to be used, the mode, manner of construction or materials to be used in the erection, alteration, repair or removal of any building within the limits of the city of Elmira and to make the same conform to the rules and regulations and resolutions adopted by it for the construction thereof. Powers of fire commissioners.

§ 5. Section one hundred and seventy-seven of such act, as amended by chapter three hundred and seventy-seven of the laws of nineteen hundred and fifteen, is hereby amended to read as follows: § 177, as amended by L. 1915, ch. 377 amended.

§ 177. The owner or owners of any wall, structure, building, part or parts thereof hereafter to be built, constructed, altered, repaired or removed within the limits hereinbefore defined,¹ of any kind whatsoever, whether he or they be the owner or owners in fee of the land, or lessee or lessees thereof, or shall have a qualified or contingent interest therein by virtue of some agreement or contract in writing or in any other manner, and any master architect or architects, builders, carpenters or masons, who may be employed or assist therein, and any and all persons who shall violate any provisions of this and the foregoing sections² or any rule and regulation duly adopted and published by said board in pursuance of the provisions of this act, shall severally and for each and every such violation respectively forfeit and pay a penalty in the sum of one hundred fifty dollars, for the recovery of which an action may be brought in the name of the city of Elmira in any court of competent jurisdiction.³ Any court of record in said city or any judge or justice thereof, shall have power at any time after the service of notice of violation of any of the provisions of this act, or any of the rules or regulations of the board of fire commissioners duly adopted and published in accordance with the provisions of this act, and upon the affidavit of the chief engineer, or any member of the board of fire commissioners, to restrain by injunction the further progress of any violation, and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof. Any person violating any of the provisions Penalty for violations.

Injunction to restrain further violation.

Violations of act or regulations deemed misdemeanors.

¹ Words "hereinbefore defined" substituted for words "of such city."

² Words "or the building code" omitted.

³ Sentence omitted which read: "The said board of fire commissioners is hereby authorized in its discretion, good and sufficient cause being shown therefor, to remit any fine or fines, penalty or penalties, which any person or persons may have incurred, or may hereafter incur under the provisions of this act."

of this act, or any of the rules and regulations of the board of fire commissioners duly adopted and published, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred fifty dollars, or be imprisoned not exceeding six months, or both such fine and imprisonment, in the discretion of the court.

§ 177a
added.

§ 6. Such act is hereby amended by inserting therein a new section, to be section one hundred and seventy-seven-a, to read as follows:

Powers of
common
council
not limited.

§ 177-a. Nothing contained in this article shall in any manner be construed as depriving the common council of power to enact ordinances pertaining to the various matters set forth in this article nor to deprive the common council of the power to adopt a building code.

§ 7. This act shall take effect immediately.

CHAPTER 135

AN ACT to amend the decedent estate law, in relation to recording of wills probated outside the state.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 18,
§ 44, as
amended by
L. 1921,
ch. 293,
amended

Section 1. Section forty-four of chapter eighteen of the laws of nineteen hundred and nine, entitled "An act relating to estates of deceased persons, constituting chapter thirteen of the consolidated laws," as last amended by chapter two hundred and ninety-three of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 44. Recording will proved in another state or foreign country. Where real property situated within this state, or an interest therein, is devised or made subject to a power of disposition by a will in writing, subscribed by the testator, duly executed² in conformity with the laws of this state or of the place where executed or of the testator's domicile, and admitted to probate without the state and filed or recorded in the proper office as prescribed by the laws of the state, territory or foreign country where the will was probated, a copy of such will or of the record thereof and of the proofs or of the records thereof, or if the proofs are not on file or recorded in such office, of any statement, on file or recorded in such office, of the substance of the proofs, authenticated as prescribed in section forty-five of this chapter, or if no proofs and no statement of the substance of the proofs be on file or recorded in such office, a copy of such will or of the record thereof, authenticated as prescribed in said section forty-five, accompanied by a certificate that no proofs or

¹ Previously amended by L. 1909, ch. 240.

² Words "without the state" omitted.

statement of the substance of proof of such will, are or is on file or recorded in such office, made and likewise authenticated as prescribed in said section forty-five, may be recorded in the office of the surrogate of any county in this state where such real property is situated; and such record in the office of such surrogate or an exemplified copy thereof shall be presumptive evidence of such will and of the execution thereof, in any action or special proceeding relating to such real property.

§ 2. This act shall take effect immediately.

CHAPTER 136

AN ACT to amend the farms and markets law, in relation to the definition of vinegars and adulterated vinegars.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and seven of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

L. 1922,
ch. 48,
§ 207
amended.

§ 207. Definition of vinegars and adulterated vinegars. All vinegars made by fermentation without distillation must carry in solution the extractive matter derived exclusively from the substances from which they were fermented.

The terms "cider vinegar," "apple vinegar" shall be construed to mean the product made exclusively from the pressed juice of apples,¹ by alcoholic and subsequent acetous fermentations, the acidity, solids and ash of which have been derived exclusively from the apples from which it was fermented.

The term "sugar vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses or refiner's syrup.

The term "malt vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of an infusion of barely malt.

The terms "wine vinegar," "grape vinegar," shall be construed to mean the product made by the alcoholic and subsequent acetous fermentation of the juice of grapes.

The term "glucose vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of corn-sugar or glucose.

The terms "spirit vinegar," "distilled vinegar," "grain vinegar" shall be construed to mean the product made by the acetous fermentations of dilute distilled alcohol.

¹ Words "from the pressed juice of apples" substituted for words "from the juices pressed from apples."

All vinegars which contain any added drugs, acids, coloring matter or ingredients not derived exclusively from the substances from which they were respectively made, or which shall contain less than four grams of acetic acid in one hundred cubic centimeters of the vinegar at twenty degrees centigrade, shall be deemed adulterated. Nothing herein shall be deemed to prohibit the manufacture of vinegar for consumption elsewhere than within this state, of such acid content as may be elsewhere required.

The product made by the destructive distillation of wood, known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, vegetables, sugar or syrup shall not be sold, offered, exposed or had in possession for sale, for food.

Mixtures of two or more of the vinegars herein defined are compounds, and the packages containing the same shall be plainly marked or branded with the word "compound" together with the proportions of the vinegars so mixed in addition to the other requirements of section two hundred and nine of this article.

Packages containing vinegars made from wine or fruits which have been reduced with water must be plainly marked or branded "reduced to _____ per centum acid strength", indicating the acidity to which they have been so reduced, or words equivalent thereto.

In effect
April 1,
1922.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

CHAPTER 137

AN ACT to amend the lien law, in relation to chattel mortgages on stocks of merchandise.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 33,
§ 230a as
added by
L. 1921,
ch. 462,
amended.

Section 1. Section two hundred and thirty-a of chapter thirty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to liens, constituting chapter thirty-three of the consolidated laws," as added by chapter four hundred and sixty-two of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 230-a. **Chattel mortgages on stocks of merchandise.** Every mortgage or conveyance intended to operate as a mortgage upon a stock of merchandise in bulk or any part thereof, or upon merchandise and fixtures pertaining to the conduct of the business of the mortgagor, shall be void as against the creditors of the mortgagor, unless the mortgagor shall at least five days before the execution of such mortgage make a full and detailed inventory, showing the quantity and, so far as possible with the exercise of reasonable diligence, the cost price to the mortgagor of each article to be included in the mortgage; and unless the

mortgagee demand and receive from the mortgagor a written list of names and addresses of the creditors of the mortgagor specifying the amount¹ due or owing to each and certified by the mortgagor² under oath to be a full, accurate and complete list of his creditors and of his indebtedness; and unless the mortgagee shall at least five days before the execution of such mortgage³ notify personally or by registered mail every creditor whose name and address is stated in such list, or of which he has knowledge, of the proposed mortgage and the terms and conditions thereof.

§ 2. This act shall take effect immediately.

CHAPTER 138

AN ACT to amend chapter five hundred and twelve of the laws of nineteen hundred and twenty, entitled "An act to create a water district to be known as the Sherrill-Kenwood water district, comprised of the present city of Sherrill, and a part of the city of Oneida, providing for the administration thereof, the election of water commissioners, their terms of office and powers and duties, and repealing section two hundred and twenty-seven of the charter of the city of Sherrill, relating to the construction of a system of water works," in relation to the territory of the water district.

Accepted by the Cities.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter five hundred and twelve of the laws of nineteen hundred and twenty, entitled "An act to create a water district to be known as the Sherrill-Kenwood water district, comprised of the present city of Sherrill, and a part of the city of Oneida, providing for the administration thereof, the election of water commissioners, their terms of office and powers and duties, and repealing section two hundred and twenty-seven of the charter of the city of Sherrill, relating to the construction of a system of water works," is hereby amended to read as follows:

L. 1920,
ch. 512, § 1
amended.

§ 1. **Water district created; territory.** The following described territory is hereby created a water district to be known as the Sherrill-Kenwood water district, to wit: All and several, those parts of the counties of Oneida and Madison, state of New York, comprised within the boundaries of the city of Sherrill, as described in the present⁴ charter thereof, and also that part of the first ward of the city of Oneida, locally known as Kenwood and more particularly described as follows:

¹ Words "specifying the amount" new.

² Word "mortgagor" substituted for word "mortgage."

³ Word "mortgage" substituted for word "mortgagor."

⁴ Word "present" new.

Beginning in the center of Oneida creek on the southerly boundary of the city of Sherrill (which is also in the boundary line between Oneida and Madison counties) at the foot of High Bank, and running thence in a southerly direction in the center of said creek, along the aforesaid county line to the point where said line intersects the westerly line of the right of way on the New York, Ontario and Western railroad, thence west across Sunset lake to the westerly boundary of adjacent lands of the Oneida Community, Limited, thence northerly along said boundary of Oneida Community, Limited, lands to the center line of Kenwood avenue if prolonged as proposed on the development maps of the said Oneida Community, Limited, thence westerly to the center of said Kenwood avenue to the center of the Middle road of the city of Oneida, thence northerly along the center line of said Middle road to the southerly corner of lands of one Fred Smith in the center of said road, thence along the easterly boundary of lands of said Smith to the northeast corner thereof, and continuing in the same direction along the westerly boundary of lands of the Oneida Community, Limited, to the right of way of the New York, Ontario and Western railroad, and across same to the center of Oneida creek, this point being on the same county boundary first hereinbefore mentioned, thence easterly in the center of said creek in and with the aforesaid county boundary to point of beginning, a part of this last course being coincident also with the southerly boundary of the city of Sherrill, to which this particularly described part of Madison county is herewith joined for all and several purposes of said water district.

§ 2. This act shall take effect immediately.

CHAPTER 139

AN ACT to amend the surrogate's court act, in relation to funeral expenses. Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 216
amended.

Section 1. Section two hundred and sixteen¹ of the surrogate's court act is hereby amended to read as follows:

§ 216. **Proceeding to compel payment of funeral expenses.** Every executor or administrator shall pay, out of the first moneys received, the reasonable funeral expenses of decedent, and the same shall be preferred to all debts and claims against the deceased. If the same be not paid within sixty days after the grant of letters testamentary or of administration, the person having a claim for such funeral expenses may present to the surrogate's court a petition praying that the executor or administrator may be cited to show cause why he should not be required

¹ As amended by L. 1921, ch. 201.

to make such payment. If upon the return of the citation it shall appear that the executor or administrator has received moneys belonging to the estate which are applicable to the payment of the claims for funeral expenses, and that the executor or administrator admits the validity of the claim or claims and the reasonableness of the amount thereof, the surrogate shall make an order directing the payment of the same, or of such part thereof as he may specify, within ten days thereafter. If the executor or administrator files an answer setting forth the facts, and therein disputes the validity of the claim or claims, or the reasonableness of the amounts thereof, the surrogate shall direct that the claim or claims so disputed be heard upon the judicial settlement of the accounts of such executor or administrator. If it shall appear that no money has come into the hands of the executor or administrator the proceeding shall be dismissed without costs and without prejudice to a further application or applications showing that since such dismissal the executor or administrator has received money belonging to the estate. At any time after three months from the date of the former order, if no answer was filed disputing such claim, a further application may be made by petition stating the facts upon which the belief of the petitioner that there are moneys in the hands of such executor or administrator applicable to the payment of his claim, is based. Upon such further application the issuance of the citation shall be in the discretion of the surrogate. If upon any accounting it shall appear that an executor or administrator has failed to pay a claim for funeral expenses, the amount of which has been fixed and determined by the surrogate, as above set forth, or upon such accounting, he shall not be allowed for the payment of any debt or claim against the decedent until said claim has been discharged in full; but such claim shall not be paid before expenses of administration are paid.²

§ 2. Subdivision two³ of section two hundred and thirty-four of such act is hereby amended to read as follows:

§ 224,
subd. 2
amended.

2. For the payment of his funeral expenses.⁴

§ 3. Subdivisions two and three of section three hundred and fourteen of such act are hereby amended to read as follows:

§ 314,
subds. 2, 3
amended.

2. The word "assets" signifies personal property applicable to the payment of the debts and funeral expenses⁵ of a decedent.

Definitions.

3. The word "debts" includes every claim and demand, upon which a judgment for a sum of money, or directing the payment

² Sentence omitted which read: "The expression 'funeral expenses,' as used in this article, shall include a reasonable charge or expenditure to provide for the perpetual care of the decedent's burial lot, in case no express provision for such care was made by the decedent in his lifetime."

³ As amended by L. 1921, ch. 201.

⁴ Remainder of subd. 2 omitted which read: "including therein suitable church or other services, a burial lot and a headstone erected thereon and a reasonable charge or expenditure to provide for the perpetual care of the decedent's burial lot, in case no express provision for such care was made by the decedent in his lifetime."

⁵ Words "and funeral expenses" new.

of money, could be recovered in an action,⁶ the word "creditor" includes every person having such a claim or demand, any person having a claim for expense of administration, or any person having a claim for funeral expenses;⁷ and the expression "funeral expenses" includes suitable church or other services, a burial lot and suitable monumental work erected thereon, and a reasonable charge or expenditure for the perpetual care of the decedent's burial lot.

In effect
Sept. 1,
1922.

§ 4. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 140

AN ACT to amend the surrogate's court act, in relation to petitions and citations.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 162
amended.

Section 1. Section one hundred and sixty-two¹ of the surrogate's court act is hereby amended to read as follows:

§ 162. **Petition; citation.** An application for ancillary letters testamentary, or ancillary letters of administration, as prescribed in this article, must be made by petition which must set forth the amount of security given on the original appointment, the name and residence of each creditor, or person claiming to be a creditor residing within the state, and the amount of his claim so far as the same may be ascertained. Citation shall thereupon issue to the state tax commission,² and to such creditors, and may issue generally to all creditors or persons claiming to be creditors residing within the state.

§ 2. This act shall take effect immediately.

CHAPTER 141

AN ACT to amend the town law, in relation to appropriations by town boards for the construction of conning towers to be used as look-outs for the suppression of forest fires.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 138b
added to
L. 1909,
ch. 63.

Section 1. Chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chap-

⁶ Word "and" omitted.

⁷ Remainder of subd. 3 new.

² As amended by L. 1921, ch. 201.

³ Words "tax commission" substituted for word "comptroller."

ter sixty-two of the consolidated laws," is hereby amended by inserting, after section one hundred and thirty-eight-a, a new section, to be section one hundred and thirty-eight-b, to read as follows:

§ 138-b. **Appropriations for construction of conning towers.** At a regular or special meeting, the town board of any town, not within the forest preserve, if requested by the conservation commission, may vote a sum of money for the construction of a conning tower, to be constructed by such commission and to be used as a look-out in aid of the suppression of forest fires, but the whole amount shall be voted at one meeting of such board and shall not exceed five hundred dollars. The moneys appropriated shall be made available for payment on the order of the conservation commission. All moneys hereby authorized shall be assessed, levied and collected the same as other town expenses.

§ 2. This act shall take effect immediately.

CHAPTER 142

AN ACT to amend chapter five hundred and seventy of the laws of nineteen hundred and nine, entitled "An act to establish the city court of Buffalo, defining its powers and jurisdiction and providing for its officers," in relation to procedure in such court.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-six of chapter five hundred and seventy of the laws of nineteen hundred and nine, entitled "An act to establish the city court of Buffalo, defining its powers and jurisdiction and providing for its officers," as last amended by chapter one hundred and eighty-eight of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

§ 56. **Civil practice act,**¹ **rules of supreme court applicable;** **when.** The provisions of the civil practice act² and rules and regulations of the supreme court as they may be from time to time, shall apply to the city court of Buffalo as far as the same can be made applicable and are not in conflict with the provisions of this act; in case of such conflict this act shall govern.

§ 2. This act shall take effect immediately.

¹ Words "Civil practice act" substituted for word "Code."

² Words "civil practice act" substituted for words "code of civil procedure."

L. 1900,
ch. 570,
§ 56, as
amended by
L. 1915,
ch. 183,
amended.

CHAPTER 143

AN ACT to amend the civil practice act, in relation to exemptions of personal property.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 665,
subd. 7
amended.

Section 1. Subdivision seven¹ of section six hundred and sixty-five of the civil practice act is hereby amended to read as follows:

7. In addition to the² exemptions allowed by the preceding subdivisions of this³ section, necessary household furniture, working tools, team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money of one or more articles, exempt as prescribed in this⁴ section.

§ 2. This act shall take effect immediately.

CHAPTER 144

AN ACT to amend the civil practice act, in relation to fees of the county clerk in Westchester county.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§§ 1556,
1567, as
amended by
L. 1921,
ch. 199,
amended.

Section 1. Sections fifteen hundred and fifty-six and fifteen hundred and fifty-seven of chapter nine hundred and twenty-five of the laws of nineteen hundred and twenty, entitled "An act in relation to civil practice in the courts of the state of New York," as amended by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one, are hereby amended to read as follows:

§ 1556. Certain sections not applicable to counties comprising city of New York and county of Westchester.⁵ The provisions of sections fifteen hundred and fifty-three, fifteen hundred and fifty-four, fifteen hundred and sixty-three, fifteen hundred and

¹ As amended by L. 1921, ch. 199.

² Word "preceding" omitted.

³ Words "preceding subdivisions of this" substituted for word "last."

⁴ Words "or the last" omitted.

⁵ Inclusion of Westchester county new.

sixty-seven and subdivision four of section fifteen hundred and fifty-eight of this act shall not apply to the county clerks of the counties of New York, Kings, Bronx, Queens, Richmond and Westchester.¹

The provisions of section fifteen hundred and fifty-four² of this act shall not apply to the registers of the counties of New York, Kings and Bronx, nor to the county clerks of Queens and Richmond when acting as recording officers.

§ 1557. **Fees of county clerks in counties comprising city of New York and county of Westchester.**¹ Except where a greater fee is allowed by another statute for the same service, the county clerks of the counties of New York, Kings, Bronx, Queens, Richmond and Westchester¹ are entitled for the services specified in this section to the following fees, to be paid in advance:

1. Upon the trial of an action or the hearing upon the merits of a special proceeding, excepting litigated motions and applications for writs, from the party bringing it on, one dollar.

2. For placing a cause on the special term calendar for the trial of an issue of fact in the supreme court, three dollars.

3. For placing a cause on the trial term calendar in the supreme court, three dollars.

4. For placing a cause on the trial calendar of the county court, three dollars.

5. For entering judgment in the action or entering a final order in the special proceeding, except non-recorded orders on litigated motion and applications for writs, one dollar, and ten cents for each name that the judgment or order directs that it be docketed against.

6. For taxing a bill of costs, fifty cents.

7. For certifying, except in criminal cases, a prepared copy of an order, record or other paper entered or filed in his office, five cents for each folio, but the minimum total charge shall be twenty-five cents.

8. For preparing and certifying a copy of an order, record or other paper entered or filed in his office, fifteen cents for each folio.

9. For a certified transcript of the docket of a judgment or other lien, twenty-five cents.

10. For filing a transcript of judgment, twenty-five cents, and ten cents additional for each name against which the judgment is docketed.

11. For filing a transcript, and making an entry as prescribed in section five hundred and eighteen of this act, twenty-five cents.

12. For issuing an execution upon a judgment, a transcript whereof, or of the docket of which, has been filed in his office,

¹Inclusion of Westchester county new.

²Formerly read: "section fifteen hundred and sixteen." Section 1556 is again amended by L. 1922, ch. 219, post, the amendment made being identical with that here effected, except that the references to Westchester county are not incorporated.

fifty cents, to be paid by the party at whose request the execution is issued.

13. For filing and recording notice of pendency of action, notice of attachment against real property or amending the same, one dollar, and five cents additional for each name indexed against and twenty-five cents for each additional block in which the notice is to be entered.

14. For cancelling such notice or a notice filed in his office as prescribed in section nine hundred and seventeen of this act, fifty cents, and twenty-five cents for each additional block in which notice is entered.

15. For filing a certificate of satisfaction of judgment, fifty cents.

16. For affixing and indexing a notice of foreclosure of a mortgage, as prescribed in section five hundred and forty-three of the real property law, fifty cents.

17. For filing a modification of or entering a satisfaction, assignment, reversal, cancellation or amendment of a lien, twenty-five cents.

18. For every certificate issued by him, the fee shall be twenty-five cents.

19. For filing and entering a summons in an action or a petition in any proceeding in the supreme or county court as required by section one hundred and seventy-two or one hundred and seventy-three of the county law, fifty cents, except that no charge shall be made for filing a petition for the appointment of a guardian ad litem.

20. For filing and entering an order directing the city chamberlain to pay out money, fifty cents.

21. For filing certificate showing deposit with city chamberlain or referee's report showing surplus, fifty cents.

22. For issuing a certificate of appearance and notice of claim filed, fifty cents.

23. For producing papers, documents, books or records on file in his office, under a subpoena duces tecum, if within the county where the public office is situated, fifty cents; if within any other county, one dollar additional for each day or part thereof, the messenger is detailed from the office, in addition to mileage fees of eight cents per mile and the necessary expenses of messenger.

24. For filing and indexing any bond and undertaking in any action or proceeding, except bonds or undertakings on assignments, injunctions and attachments of property in the county of New York, fifty cents.

§ 2. This act shall take effect immediately.

CHAPTER 145

AN ACT to amend the civil practice act, in relation to time to appeal from an order.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section six hundred and twenty-six¹ of the civil practice act is hereby amended to read as follows: § 626 amended.

§ 626. **Limitation of time to appeal from order; stay of proceedings.** An appeal to the supreme court or to the appellate division thereof from an order affecting a substantial right made by² an inferior or local court, or by a judge thereof,³ except where otherwise expressly provided by law, must be taken within sixty days after service upon the attorney for the appellant of a copy of the order, and written notice of the entry thereof except that the party entering the order, or serving the notice of the entry thereof, shall not be entitled to further notice to limit his time to appeal. Security is not required to perfect it, but it does not stay the execution of the order from which it is taken. The appellate court, or a judge thereof, may direct such a stay upon such terms as to security or otherwise as justice requires.

§ 2. This act shall take effect immediately.

CHAPTER 146

AN ACT to amend the conservation law, in relation to the destruction of illegal nets.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and eighty-two of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and amended by chapter five hundred and eight of the laws of nineteen hundred and thirteen, is hereby amended to read as follows: L. 1911, ch. 647, § 282, as added by L. 1912, ch. 312, and amended by L. 1912, ch. 508, amended.

§ 282. **Nets to be destroyed.** Seines, fykes, pounds, traps and other nets prohibited by law,⁴ had, set or used in or upon any

¹ As amended by L. 1921, ch. 372.

² Words "an order affecting a substantial right made by," substituted for words "the final judgment of."

³ Words "or by a judge thereof" new.

⁴ Word "prohibited" substituted for words "not authorized."

of the inland or tidal waters of the state or on the shores thereof, or islands surrounded by said waters are hereby declared to be public nuisances, and shall be summarily seized, abated and destroyed by any game protector or may be sold by the commission at public auction to the highest bidder under rules and regulations established by it; provided, however, the commission may direct a game protector to retain certain nets or seines for the use of the state hatcheries. Possession of nets other than as provided for by part VIII at any time by any person in or on or within one-half mile² of any waters of the state shall be a misdemeanor.³

§ 2. This act shall take effect immediately.

CHAPTER 147

AN ACT to amend the conservation law, in relation to taking non-game fish by snatch hooks.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 255a, as
added by
L. 1915,
ch. 297,
amended.

Section 1. Section two hundred and fifty-five-a of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, such section being added by chapter two hundred and ninety-seven of the laws of nineteen hundred and fifteen is hereby amended to read as follows:

§ 255-a. **Taking certain non-game fish.** Suckers, mullet, carp, bullheads and eels may be taken by snatch hooks only in any stream in the state at any point in such stream not less than five miles below the source thereof, between November first and April thirtieth, both inclusive; ¹provided, however that no such fish shall be taken in Broome county or attempted to be taken by blind snatching, the fish being unseen by the fishermen, but trolling in any form shall not be regarded as blind snatching. In taking such fish under the provisions of this section, driving shall be permitted. The requirements, prohibitions, conditions and exceptions prescribed by sections two hundred and fifty-two and two hundred and fifty-five of this chapter shall not apply to the taking of fish described in this section with snatch hooks within the times herein prescribed.

§ 2. This act shall take effect immediately.

² Words "one-half mile" substituted for words "five hundred feet."

³ Words "a misdemeanor" substituted for words "presumptive evidence that the same were unlawfully used."

¹ Remainder of sentence new.

CHAPTER 148

AN ACT authorizing and empowering the city of Lockport to sell surplus waters to be used in the town of Lockport.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of Lockport is hereby authorized and empowered to sell to the inhabitants of the town of Lockport surplus waters from its mains, to be used on property within said town of Lockport.

§ 2. This act shall take effect immediately.

CHAPTER 149

AN ACT to amend chapter six hundred and seventy-two of the laws of nineteen hundred and twenty, entitled "An act to provide service badges and ribbons for officers and enlisted men of the military forces of this state who were on active duty under orders of the governor guarding public property, public utilities or other establishments necessary for the conduct of the world war, between February second, nineteen hundred and seventeen, and February second, nineteen hundred and nineteen, and making an appropriation therefor," in relation to the persons to whom service badges and ribbons shall be issued, and in relation to changing the bar of the ribbon.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter six hundred and seventy-two of the laws of nineteen hundred and twenty, entitled "An act to provide service badges and ribbons for officers and enlisted men of the military forces of this state who were on active duty under orders of the governor guarding public property, public utilities or other establishments necessary for the conduct of the world war, between February second, nineteen hundred and seventeen, and February second, nineteen hundred and nineteen, and making an appropriation therefor," is hereby amended to read as follows:

§ 1. The adjutant-general of the state shall cause to be prepared and shall distribute a suitable service badge and ribbon to each officer and enlisted man of the military or naval¹ forces of the state of New York who was on active duty under orders of the governor or in the service of the United States² for more than ten days³ guarding public property, public utilities or other

L. 1920,
ch. 672.
§ 1
amended.

Prepara-
tion
and distri-
bution.

¹ Words "or naval" new.

² Words "or in the service of the United States" new.

³ Formerly "thirty days."

Service
discs.

Title
amended.

establishments necessary for the conduct of the world war, between February second, nineteen hundred and seventeen, and February second, nineteen hundred and nineteen. If any such officer or enlisted man be deceased, the badge and ribbon to which he would be entitled shall be delivered to his proper legal representative. 'Recipients of the badge may, at their own expense, attach on the bar of the ribbon a metal disc of the size and style authorized on the bar of the state long and faithful service medal with the Roman numerals " I " for six months and over of actual service; " II " for twelve months and over of such service; and " III " for eighteen months and over of such service.

§ 2. The title of such chapter is hereby amended to read as follows: An act to provide service badges and ribbons for officers and enlisted men of the military or naval⁵ forces of this state who were on active duty under orders of the governor or in the service of the United States⁶ guarding public property; public utilities or other establishments necessary for the conduct of the world war, between February second, nineteen hundred and seventeen, and February second, nineteen hundred and nineteen, and making an appropriation therefor.

§ 3. This act shall take effect immediately.

CHAPTER 150

AN ACT to amend the public lands law, in relation to publication of notices of sale of the unappropriated state lands.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 50,
§ 33
amended.

Section 1. Section thirty-three of chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," is hereby amended to read as follows:

§ 33. Notice and place of sale of unappropriated state lands. The commissioners may, from time to time, direct the state engineer to sell the unappropriated state lands, not otherwise directed to be disposed of, or the sale of which is not prohibited, at public auction in such parcels as they deem for the best interests of the state.¹ Previous to every sale, they shall furnish the state engineer a statement of the lowest sum at which each lot may be sold, and shall designate at least one newspaper in the county where the lands to be sold are situated, in which the

¹ Following sentence new.

² Words "or naval" new.

³ Words "or in the service of the United States" new.

⁴ Remainder of sentence omitted which read: "and for the promotion of the settlement thereof; but not more than twenty thousand acres shall be sold at any one auction, and each lot shall be separately exposed to sale."

state engineer shall cause notice of the time, place and conditions of sale to be published, at least once a week for at least four weeks;¹ successively, before the sale. ²Such notice shall not be published in any other paper or papers, and any statute requiring additional publication of notices or advertisements by state officers or a department, board, bureau or commission of the state shall not apply to such notice; but the commissioners in their discretion may cause such notice, written or printed, to be posted at least twenty-eight days before the sale, in three public places in the town or city where the sale is to take place, and also in one public place in the town or city where the property is situated, if the sale is to take place in another town or city. All such sales shall be held at the county seat of the county where the property is situated,⁴ unless otherwise directed by the commissioners of the land office.

§ 2. This act shall take effect immediately.

CHAPTER 151

AN ACT to amend the surrogate's court act, in relation to payment of legacy or distributive share of infants.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and seventy-one of the surrogate's court act is hereby amended to read as follows:¹

§ 271. **Payment of share of infant.** When a legacy or distributive share or the proceeds of any action brought as prescribed in section one hundred and thirty of the decedent estate law or the proceeds of a settlement of a cause of action brought in behalf of an infant for personal injuries is payable to an infant, the decree or order shall direct that it be paid to his guardian upon his filing sufficient security, unless the sum payable to the infant does not exceed one hundred and fifty dollars, in which case the decree or order may order it to be paid to his father, or to his mother, or to some competent person with whom the infant resides, or who has some interest in his welfare, for the use and benefit of such infant. If there be no guardian, the decree or order shall provide that the sum payable to the infant not disposed of in the manner aforesaid, shall be paid into or deposited with the surrogate's court.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

§ 271
amended.

In effect
Sept. 1,
1922.

¹Formerly "eight weeks."

²Following sentence new.

³Words "at the county seat of the county where the property is situated," substituted for words "in the city of Albany."

⁴Section materially amended. See L. 1921, ch. 229.

CHAPTER 152

AN ACT to amend the charter of the city of Plattsburg, repealing certain sections thereof, abolishing the board of public works and transferring its powers and duties to the common council of such city.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 36a
added to
L. 1903,
ch. 269.

Section 1. Title four of chapter two hundred and sixty-nine of the laws of nineteen hundred and two, entitled "An act to incorporate the city of Plattsburg," is hereby amended by adding therein a new section, to follow section thirty-six, to be section thirty-six-a, to read as follows:

§ 36-a. **Powers and duties of board of public works transferred to common council.** The board of public works is hereby abolished. All the powers and duties heretofore conferred or imposed on or now exercised by the board of public works of such city pursuant to any provision of this chapter or by any other law, general or special, or by any ordinance or resolution of the common council of such city, are hereby transferred to, conferred and imposed on the common council of such city, and every provision of this chapter or of any other law, general or special, which by terms or implication, confers jurisdiction, grants power or devolves duties upon, or authorizes proceedings by, the board of public works of such city, and every such provision which in terms or by implication applies to such board of public works, shall be deemed and held to confer like jurisdiction on, grant like power to, devolve like duties upon, authorize like proceedings by and have like application to the common council of such city. All books, papers, records, contracts, maps and plans and other documents of whatever description within the possession or control of the board of public works shall be delivered to and be the property of the common council of such city. All contracts heretofore made on behalf of the city by such board of public works shall continue in effect pursuant to the terms of such contract in the same manner and with the same effect as though the board of public works had not been abolished. The employees of the board of public works of such city, in office at the time this section takes effect, shall be eligible for transfer and appointment without examination or change of status to similar offices and positions under the common council of such city. The common council of such city shall be deemed and held to constitute a continuation of the board of public works and not as a new department or branch of municipal government. The taking effect of this section shall not affect any pending action, proceeding or appeal to which such board of public works is a party but the same may be prosecuted or defended to final determination by the common council of such city.

§ 2. Section fifty-two and all other provisions of such chapter or of any other law inconsistent with the provisions of this act and all acts amendatory thereof or supplementary thereto are hereby repealed. § 53
repealed.

§ 3. This act shall take effect immediately.

CHAPTER 153

AN ACT to amend the public service commission law, generally.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirteen of chapter four hundred and eighty of the laws of nineteen hundred and ten, entitled "An act in relation to the public service commission and the transit commission, constituting chapter forty-eight of the consolidated laws," as last amended by chapter one hundred and thirty-four of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows: L. 1910,
ch. 480,
§ 13, as
amended by
L. 1921,
ch. 124,
amended.

§ 13. **Salaries and expenses.** The annual salary of each commissioner shall be fifteen thousand dollars (\$15,000).² All officers, clerks, inspectors, experts and employees of a commission, and all persons appointed by the counsel to a commission, shall receive the compensation fixed by the commission. The commissioners, counsel to the commission and the secretary, and their officers, clerks, inspectors, experts and other employees, shall have reimbursed to them all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties.

§ 2. Subdivision one of section forty-nine of such chapter, as amended by chapter one hundred and thirty-four and chapter three hundred and thirty-five of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows: § 49,
subd. 1, as
amended by
L. 1921,
chs. 124,
235
amended.

1. Whenever either commission shall be of opinion, after a hearing had upon its own motion or upon a complaint, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad corporation or street railroad corporation subject to its jurisdiction for the transportation of persons or property within the state, or that the regulations or practices of such common carrier, railroad corporation or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of any provision of law, or that the maximum Determination
of
reasonable
rates, fares
and charges
of common
carrier.

¹ Previously amended by L. 1919, ch. 263.

² Sentence omitted which read: "The annual salary of a counsel to a commission shall be ten thousand dollars (\$10,000). The annual salary of a secretary to a commission shall be six thousand dollars (\$6,000)."

³ Previously amended by L. 1911, ch. 546.

When plan
of read-
justment.

Temporary
increase or
decrease in
rates, fares
and charges
of common
carrier.

rates, fares or charges, chargeable by any such common carrier, railroad or street railroad corporation are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, the commission shall with due regard among other things to the estimated prospective earning capacity of such property at the rate of fare at the time fixed and existent and to a reasonable average return upon the value of the property actually used in the public service, and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed, notwithstanding that a higher or lower rate, fare or charge has been heretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and shall fix the same by order to be served upon all common carriers, railroad corporations or street railroad corporations by whom such rates, fares and charges are thereafter to be observed, 'provided, however, anything herein contained to the contrary notwithstanding, that, except in the case of a common carrier other than a street railroad corporation, not proposed by the commission to be included in the plan of readjustment under the provisions of article six of this chapter, the transit commission shall not increase or authorize the increase of any rate of fare prescribed by any such general or special statute, contract, grant, franchise, conditions, consent or other agreement except as part of and as may be provided in such plan of readjustment. Any such change in rate, fare or charge shall be upon such terms, conditions or safeguards as the commission may prescribe.

If it shall be made to appear to the satisfaction of the commission that the public interest requires a change in the rates, fares or charges demanded or collected by any person, firm or corporation subject to its jurisdiction, or that such change is necessary, for the purpose of providing safe, adequate and efficient service, or for the preservation of the property, the commission, upon such terms, conditions or safeguards as it deems proper, may authorize an immediate reasonable temporary increase or decrease in such rates, fares and charges pending a final determination of the rates, fares and charges to be thereafter observed by such person, firm or corporation, provided, however, anything herein contained to the contrary notwithstanding, the transit commission shall not authorize any such change prior to the adoption of a plan of readjustment under the provisions of article six of this chapter, unless, pending the completion of the valuations of the railroad property which it proposes to include in any such plan and during the preparation of such plan, the commission shall, as the result of its studies and investigations, find such change to be necessary in the public interest for the accomplishment of one or more of the purposes

* Remainder of sentence new.

to be achieved by such plan as specified in said article, and in such event the commission shall require as conditions precedent to such change the execution of any such stipulations by the railroad companies and others as in its judgment shall be necessary to further and protect the consummation of such plan. The terms, conditions, or safeguards prescribed may include provisions for the purpose for which the additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purposes so specified. At any hearing involving a rate, the burden of proof to show that the change in rate if proposed by the common carrier, or that the existing rate, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate, is just and reasonable shall be upon the common carrier; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

Burden of
proof.

Preference.

Whenever either commission shall be of the opinion, after a hearing had upon its own motion, or upon a complaint, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier, railroad corporation or street railroad corporation subject to its jurisdiction for excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under six years of age, or any other form of reduced rate tickets for the transportation of persons within the state, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more within the state, or that the regulations or practices of such common carrier, railroad corporation or street railroad corporation affecting such rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of any provision of law, or that the maximum rates, fares or charges collected or charged for any of such forms of reduced fare passenger transportation tickets by any such common carrier, railroad or street railroad corporation are insufficient to yield reasonable compensation for the service rendered, and are unjust and unreasonable, and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon a complaint, and upon investigation, that the sale of any form or forms of reduced fare passenger ticket heretofore sold or used upon any railroad or street railroad within the state of New York, the use or sale of which ticket or tickets has been discontinued within five years prior to June thirtieth, nineteen hundred and eleven, will be just and reasonable and not in violation of any provision of this chapter or other provision of law, the commission shall, with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, fares and charges to be

Deter-
mination of
reasonable
charges for
reduced
rate
tickets and
joint inter-
change-
able
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tickets:
restora-
tion of
use where
discon-
tinued.

thereafter observed and enforced as the maximum to be charged for such mileage, excursion, school or family commutation, commutation, half fare or any other form of reduced rate tickets for the transportation of persons, or joint interchangeable mileage tickets with special privileges as aforesaid, and shall order the sale and use thereof to be restored, or any of the kinds of tickets herein specified or any other form of reduced rate ticket for the transportation of persons within the state, upon any railroad or street railroad within this state, upon which railroad or street railroad any such form of ticket or tickets for the transportation of persons within the state, have, within five years prior to June thirtieth, nineteen hundred and eleven, been sold or used, and shall determine and prescribe the reasonable and just rates, fares and charges to be thereafter observed and enforced as the maximum to be charged for any of such form of ticket or tickets for the transportation of persons within the state, all of which acts fixing such rates, fares and charges or requiring the restoration of, sale and use of any of such forms of ticket or tickets, shall be by order to be served upon all common carriers, railroad corporations and street railroad corporations by whom such rates, fares and charges or restoration of, sale or use of such ticket or tickets are thereafter to be observed.

§ 49,
subd. 4
amended.

§ 3. Subdivision four⁵ of section forty-nine of such chapter, as last amended by chapter one hundred and thirty-four of the laws of nineteen hundred and twenty-one,⁶ is hereby amended to read as follows:

Commission may require common carriers to receive cars and construct switch connections for through transportation from each other's tracks.

4. If the commission shall be of the opinion that through cars for the transportation of property should be operated over the tracks of said common carriers, railroad corporations and street railroad corporations and that switch connection or interchange track at a connecting point, if not already existing, should be constructed and maintained by such common carriers, railroad corporations and street railroad corporations, to the end that property may be carried without change of cars, the commission shall have power after a hearing to require by order said common carriers, railroad corporations and street railroad corporations to receive from each other and transport for each other such cars over each other's tracks by way of such switch connection or interchange track, and if no such switch connection or interchange track exist to construct and maintain said switch connection or interchange track, and to make within a specified time not less than thirty days an agreement between them as to the terms of such receipt and transportation of cars, and if so required as to the division of the expense of such construction and maintenance of switch connection or interchange track; and in case such agreement be not so made within the time so specified, the commission shall after a hearing declare by supplemental order the terms and conditions upon which such cars shall be

⁵ As amended by L. 1920, ch. 637.

⁶ Subd. 4 was not amended by L. 1921, ch. 134.

received and transported, and if so required the portion of such expense to which each common carrier or corporation affected thereby shall be entitled and the manner in which any sums of money to which any such common carrier or corporation is entitled shall be paid and secured, and such supplemental order shall take effect as part of the original order from the time such supplemental order shall become effective. Nothing in this subdivision shall be construed to require a through route between railroad corporations and street railroad corporations between points reached by such railroad corporations.

' In case upon the termination of a lease or otherwise the owner or lessor * of a rapid transit railroad resumes operation thereof and thereupon such owner or lessor or the lessee discontinues or threatens to discontinue or refuses or threatens to refuse to permit operation over any extension or extensions of such rapid transit railroad or railroads or any of them, or discontinues or threatens to discontinue or refuses or threatens to refuse to permit operation over other railroads on which such lessee had operated under trackage rights, then and in either of those events the commission may order that through cars for the transportation of passengers shall be operated over such extension or extensions and over the tracks of such other railroad over which such lessee may have had trackage rights, and the commission shall have power, after a hearing, to require by order such operating, including the right to order such switch or other connections or interchange tracks as may be necessary, and if so required, to determine as to the division of the expense of the maintenance and operation thereof. The commission may, after a hearing, prescribe the terms and conditions upon which such operations shall be conducted and the manner in which receipts and expenses shall be apportioned.

Pending the hearing or hearings provided for herein, and the determinations and orders of the commission thereon, the commission shall have power, if in its judgment the public interest requires it, to issue a temporary order requiring said rapid transit railroad companies to receive from each other, and transport for each other, such cars over each other's tracks by way of switch connection or interchange track, and if no such switch connection or interchange track exists, to construct and maintain said switch connection or interchange track; and upon the completion of said hearing or hearings, and the determinations and orders of the commission thereafter made, the terms of the receipt and transportation of cars, and the readjustment of compensation and expense involved, shall take effect as of the original date of such temporary order of the commission.

If upon the expiration or earlier termination of a lease, the free transfer or interchange of passengers, theretofore in effect and permitted by the lessee of a rapid transit railroad at any

* So in original. [Word misspelled.]

' Remainder of subd. 4 new.

Same in case of termination of lease with rapid transit railroad.

Temporary order pending hearings.

Same in case of discontinuance of free transfer of passengers.

point or points between the lines of the rapid transit railroads owned or leased and operated by it, is discontinued or is threatened to be discontinued, the commission shall have power by order to require the companies, by which the said lines of rapid transit railroads may be operated after the termination of the lease, to continue or re-establish such through routes formerly existing, and to establish joint rates, fares and charges for the transportation of passengers thereon in the manner provided by subdivision three of this section.

Temporary
order
pending
hearings.

Pending the hearing or hearings provided for herein, and the determinations and orders of the commission thereon, the commission shall have power to issue a temporary order requiring the companies then operating said lines of rapid transit railroad to restore the said free transfer or interchange of passengers at the point or points on said rapid transit railroad lines where the said free transfer or interchange was formerly in effect and permitted; and upon the completion of said hearing or hearings, and the determinations and orders of the commission thereafter made, the terms and conditions under which the portion of said joint rates, fares and charges to which each company shall be entitled and the manner in which the same shall be paid and secured, shall take effect as of the original date of such temporary order of the commission.

§ 106, as
amended by
L. 1921,
ch. 235,
amended.

§ 4. Section one hundred and six^a of such chapter, as last amended by chapter three hundred and thirty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 106. **Commission to prepare plan of readjustment.** The commission after making the necessary studies and investigation shall prepare a plan of readjustment for the relief of the emergency which is hereby declared to exist, and for the improvement of transit in such city. Such plan shall contain provisions, which in the judgment of the commission, will accomplish as nearly as may be the following four main purposes: (1) the combination, rehabilitation, improvement and extension of existing railroads so that service thereon may be increased and improved to the fullest extent possible, (2) the receipt as soon as practicable by the city of sufficient returns from the operation of the railroads so that the corporate stock or bonds issued by the city for the construction of rapid transit railroads may be exempted in computing the debt incurring power of the city under the constitution of the state, and (3) the assuring to the people of the city the continued operation of the railroads at the present or lowest possible fares consistent with the just valuations of the railroads and their safe and economical operation. The commission shall also endeavor to include in the plan of readjustment appropriate provision for the protection of tort creditors. Without limiting the authority and discretion of the commission, it shall consider the incorporation in the plan of provisions whereby the title to

^a As added by L. 1921, ch. 134.

such railroads as are not already owned by the city and whose ownership thereby is deemed by the commission to be desirable may be vested in the city in return for a lease of such railroads by the city, and in the event of the incorporation of such provision in the plan the commission shall outline an arrangement whereby outstanding securities of the railroad companies may be exchanged for new securities and the valuation of the railroads, determined as hereinafter provided, amortized. The commission may provide in any contract or in any modification of an existing contract that the payment of interest and dividends may be deferred for a period to be fixed by the commission, and not to exceed two years from the delivery of such contract or such modification, in order to provide funds for the prompt reorganization and rehabilitation of the railroads.

In connection with the preparation of such plan the commission shall cause a valuation to be made of the property, other than franchises or going value, necessarily used in public service of the railroads it proposes to include therein. Such valuation shall be made with due regard to the estimated prospective earning capacity of the property necessarily used in the public service at the rate or rates of fare that the company prior to the taking effect of this act was entitled to charge in view of the provisions of the contract or franchise under which the property is operated or held or of any lawful order in force fixing or regulating rates of fare and of the competition of other lines and with due regard to all other pertinent facts and conditions; but such valuation shall not in any case exceed the fair reconstruction cost of the property less depreciation. Such valuation shall be in such detail and shall include the elements of cost or values and shall be made in such manner as the commission may prescribe. Such valuation as finally determined by the commission and incorporated in the contracts⁹ shall be the basis for all allowances to the railroad companies under the plan and for thereafter fixing the returns under the plan and the contracts entered into thereunder¹⁰ on the property so valued, anything in this chapter to the contrary notwithstanding.

In connection with the preparation of the plan of readjustment the commission shall investigate and give consideration to the possibility of including in the plan provision for railroads operating between a point or points within the city and a point or points without the city and for connecting railroads whose lines stop at or near the city line.

In the preparation of the plan of readjustment the commission shall consider the incorporation in the contracts to be entered into to carry such plan into effect of provision for a board of control to have supervision and control over the management and operation of the railroads included in the plan and in such contracts and for proper representation thereon of the city and of

⁹ Words "and incorporated in the contracts" new.

¹⁰ Words "under the plan and the contracts entered into thereunder," new.

the railroad companies and of any other interest which the commission decides should also be represented thereon.

¹¹ When organized by the commission, such board of control shall be a body politic and corporate, to be known and designated as the board of transit control, with authority to issue bonds and other evidences of indebtedness; to hold the stock and securities of subsidiary operating and other corporations; to exercise supervision and control over the management and operation of the railroads included in the plan as therein provided; to adopt and from time to time amend by-laws, and to have all the powers necessary or incidental to the effective performance of the duties imposed upon it by the plan of readjustment and the contracts entered into thereunder. Such organization of the board of transit control shall be evidenced by the commission filing in the office of the secretary of state a certified copy of such by-laws, together with a certified copy of the minutes of the proceedings of the transit commission in respect of such organization. In order to aid and facilitate the plan of readjustment the members of the commission may, in addition to their other duties, serve as members of the board of transit control for a period not to exceed the first year of operation under the plan of readjustment.

If under the plan of readjustment the title to the railroads is to be vested in the city under contract provision to the effect, in substance, that title shall first pass, subject to specified liens, to an intervening corporation to be organized by the commission for such purpose, in exchange for bonds of such intervening corporation, and that the title to the railroads to be transferred by such intervening corporation to the city in return for a lease or leases to such intervening corporation or to other corporations organized by the commission* for operating the railroad, the board of transit control shall constitute and be such intervening corporation, with full power and authority to perform and carry out the provisions of the contract or contracts or modification of contracts executed under the plan of readjustment.

The board of transit control shall cause to be organized and incorporated such subsidiary operating companies as may be deemed by the commission to be necessary for the purpose of operating the whole or any part of the system provided for under the plan of readjustment. Any such subsidiary operating companies created solely for the purpose of carrying out the plan of readjustment shall be organized by filing in the office of the secretary of state an appropriate certificate of incorporation, prepared and executed by the members of the board of transit control, in which certificate shall be set forth the name of the company, the number of shares of its stock, the amount of its capital, which may be nominal, the names and addresses of the directors and a general description of the routes or system which the company is to operate. Said certificate may also contain authorization for the operation by such company of future-built extensions

* So in original. [Word misspelled.]

¹² Remainder of section new.

to such routes or systems. Upon filing the certificate of incorporation the board of transit control shall, by written or printed notice of ten days, served personally or by mail, call a meeting of the then registered holders of all securities that have been issued by the board of transit control in exchange for the railroads included in the group or system to be operated by such subsidiary company, and appoint inspectors of election to serve thereat. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in amount of such securities represented may elect persons, of a number to be theretofore determined by the board of transit control, not less than nine, who shall be directors for one year of the corporation formed for the purpose of operating such railroads. Within ten days after the election of such directors the board of transit control shall deliver to them a certificate in duplicate, setting forth the certificate of incorporation and organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificate, such directors shall file it in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railroad shall have its principal office, and thereupon the persons who have so subscribed such certificate of incorporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporation. The board of transit control may provide in the certificate of incorporation of such companies that the right to elect directors thereof shall be vested in others than the stockholders in accordance with the conditions and stipulations contained in the contract or contracts or modification of contracts executed under or in pursuance of the plan or * readjustment.

Every such corporation shall have power, in addition to the powers conferred by the general and stock corporation laws, to exercise all of the powers of the railroad companies whose properties have been, as in this act authorized, vested in the city and leased to such subsidiary operating companies, and all of the powers conferred by the railroad law, being chapter forty-nine of the consolidated laws, and by chapter four of the laws of eighteen hundred and ninety-one, as amended.

§ 5. This act shall take effect immediately.

* So in original. [Should be "of".]

CHAPTER 154

AN ACT to amend the banking law, in relation to powers of savings banks to make loans on passbooks of depositors.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
§ 239,
subd. 8,
¶ (d)
amended.

Section 1. Paragraph (d)¹ of subdivision eight of section two hundred thirty-nine of chapter three hundred sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

(d). Promissory notes made payable to the order of the savings bank within ninety days from the date thereof, secured by the pledge and assignment of the passbook of any savings bank in the state of New York, as collateral security for the payment thereof. No such loan shall exceed one hundred per centum² of the balance due the holder of such passbook as shown therein.

§ 2. This act shall take effect immediately.

CHAPTER 155

AN ACT to amend the charter of the city of Buffalo, to authorize the council to determine whether the expense of reconstructing sewers shall be a local or general fund charge.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 217,
§ 316,
amended.

Section 1. Section three hundred and sixteen of chapter two hundred and seventeen of the laws of nineteen hundred and fourteen, entitled "An act to provide a charter for the city of Buffalo," is hereby amended to read as follows:

Accepted
streets;
repairs.

§ 316. All repairs of accepted streets shall be paid for from the general fund. The construction and repair of all crosswalks and approaches to crosswalks, and the cleaning and repairing of all public sewers and receivers, shall be deemed repairs of accepted streets. ³Whenever a sewer is to be reconstructed, the council shall determine whether the expense thereof shall be paid by local assessment or out of the general fund, or partly by

¹ As amended by L. 1918, ch. 95.

² Formerly "ninety per centum."

³ Following sentence new.

local assessment and partly out of the general fund, in proportions to be fixed by the council.

§ 2. Section three hundred and seventeen of said chapter is hereby amended to read as follows: § 317
amended

§ 317. All streets or part of streets paved at the time this act takes effect, or which shall subsequently be paved, shall be deemed accepted streets within the meaning of this title, and shall be repaired when necessary, if the superintendent of public works certifies that less than one-third of the carriageway is in condition requiring repairs; but whenever the superintendent shall certify that it is not expedient to make further repairs upon that pavement, in an accepted street or in the portion thereof between two streets that intersect or meet the same, the council may order said street, or portion thereof mentioned in such certificate, repaved, and two-thirds of the expense thereof shall be paid by local assessment, and the remaining one-third thereof shall be a charge on, and paid out of, the general fund of the city, as provided in this act. ¹ Whenever the superintendent of the department having charge and control of the work shall certify that it is inexpedient to repair a sewer, or any portion thereof, and that the same requires reconstruction, the council may order such sewer, or portion thereof, reconstructed, and the cost thereof shall be defrayed as provided in this act. Accepted
streets;
what
deemed,
repairing.

Sewers;
recon-
struction.

§ 3. This act shall take effect immediately.

CHAPTER 156

AN ACT to amend the civil practice act, in relation to notice to be given in certain cases of summary proceedings to recover possession of real property.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen hundred and sixteen^{1a} of the civil practice act is hereby amended to read as follows: § 1416
amended.

§ 1416. **Notice to be given in certain cases.** Where the person to be removed is a tenant at will or at sufferance the petition must state the facts showing that the tenancy has been terminated by giving notice as required by law. Where the application is made in a case specified in section fourteen hundred and eleven² of this act, the petition must state that a notice in behalf of the applicant requiring all persons occupying the property to

¹ Following sentence new.

^{1a} As added by L. 1921, ch. 199. Section 1416 is again amended by L. 1922, ch. 219, post; the amendment made by said ch. 219 is identical with that here effected.

² Words "fourteen hundred and eleven" substituted for words "three hundred and eighty."

quit the same by a day therein specified has been either served personally upon the person or persons to be removed or affixed conspicuously upon the property at least ten days before the day specified therein.

§ 2. This act shall take effect immediately.

CHAPTER 157

AN ACT to amend subdivisions thirteen and fourteen of section fifty-one of the conservation law, relating to wages paid fire fighters.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 81,
subds. 13,
14, as
added by
L. 1916,
ch. 451,
and
amended by
L. 1918,
ch. 421,
L. 1919,
ch. 540,
and
L. 1920,
ch. 461,
amended.

Fire
wardens;
compensa-
tion.

Employ-
ment of
men to ex-
tinguish
forest fires.

Other
persons
may be
summoned
to help.

Section 1. Subdivisions thirteen and fourteen of section fifty-one of article four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," known as the conservation law, as added by chapter four hundred and fifty-one of the laws of nineteen hundred and sixteen, and amended by chapter four hundred and twenty-one of the laws of nineteen hundred and eighteen and chapter five hundred and forty of the laws of nineteen hundred and nineteen and chapter four hundred and sixty-one of the laws of nineteen hundred and twenty, are hereby amended to read as follows:

13. Necessary fire wardens, who shall, when fires are actually burning, have power and authority to take steps to extinguish fires. They shall be paid at the rate of not more than forty cents¹ per hour for time actually employed.

14. District forest rangers, forest rangers, observers, fire wardens and game protectors or any other officer charged with the duty of fire fighting may, when necessary, employ men who shall be paid at the rate of not more than twenty-five cents² per hour and teams to fight forest fires, and also engage other men to be known as foremen for particular fires to direct the work of men engaged in fighting such fires. Such foremen shall be paid at the rate of not more than forty cents¹ per hour for time actually employed. These employees may incur other necessary expenses in connection with extinguishing forest fires. They shall have the power to summon any male person of the age of eighteen and upwards to assist in fighting such fires, and any person so summoned shall forthwith proceed to help extinguish the fire as directed by the person summoning him.

§ 2. This act shall take effect immediately.

¹ Words "not more than forty cents" substituted for words "fifty cents."

² Words "not more than twenty-five cents" substituted for words "thirty cents."

CHAPTER 158

AN ACT to amend the conservation law in relation to the training of dogs.
Became a law March 22, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Section 1. Section one hundred and ninety-three-a of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter four hundred and ninety-one of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 193a, as
added by
L. 1917,
ch. 491,
amended.

§ 193-a. **Dogs may be trained.** The owner of any duly licensed dog may during the month of September in each year take the same afield for the purpose of training said dog except on Long Island, where any such dog may be taken afield during the months of September and October¹ provided that such owner shall carry no firearms and that no injury be inflicted upon any quadrupeds or game birds, contrary to law; and further provided that the said owner shall have first obtained from the commission a permit so to do.

The word "owner" as used in this section shall include a trainer who harbors or keeps a dog for the purpose of training the same.

§ 2. This act shall take effect immediately.

CHAPTER 159

AN ACT to amend the conservation law, in relation to nets and netting.
Became a law March 22, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

Section 1. Section two hundred and seventy-two of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, is hereby amended by inserting therein two new subdivisions, to be subdivisions three and four, to read as follows:

Subds. 3, 4
added to
L. 1911,
ch. 647,
§ 272, as
added by
L. 1912,
ch. 312.

3. Gill or other nets used for taking smelt, not less than one-half inch bar.

¹ Words "except on Long Island, where any such dog may be taken afield during the months of September and October," new.

4. Gill or other nets used for taking tom-cod, not less than seven-eighths inch bar.

§ 279, as
added by
L. 1912,
ch. 318,
and
amended by
L. 1919,
ch. 292,
amended.

§ 2. Section two hundred and seventy-nine of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter two hundred and ninety-two of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

§ 279. **Nets in Hudson and Delaware rivers and adjacent waters.** Shad and herring may be taken with drifting nets operated by hand only from March fifteenth to June fifteenth, both inclusive, in the Delaware river and that part of the Hudson river below the dam at Troy. No such net shall be set, placed or drawn, or fish taken therefrom between sunset on Friday and one hour before sunrise on Monday. Fish, except salmon, black bass, trout, pike-perch, and except also during March and April, pickerel and pike, may be taken with nets in the Hudson river below the dam at Troy, from September first to May thirtieth, both inclusive. Sturgeon may be taken in the Hudson river with sturgeon nets of not less than five and one-half inch bar, from June first to September first, both inclusive. ²Smelts may be taken with nets in the Hudson river below VerPlanck's Point from March first to April fifteenth, both inclusive. Tom-cod may be taken with nets in the Hudson river below VerPlanck's Point from November first to March first, both inclusive. Nothing in this section shall apply to the marine district.

§ 3. This act shall take effect immediately.

CHAPTER 160

AN ACT to amend the debtor and creditor law, in relation to provision for contingent or unliquidated liabilities.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 194a
added to
L. 1909,
ch. 17.

Section 1. Chapter seventeen of the laws of nineteen hundred and nine, entitled "An act relating to debtors and creditors, constituting chapter twelve of the consolidated laws," is hereby amended by inserting therein after section one hundred and ninety-four, a new section, to be section one hundred and ninety-four-a, to read as follows:

§ 194-a. **Provision for contingent or unliquidated liabilities.** If, at the time any dividend is made, there shall be a contingent or unliquidated claim against the debtor or an outstanding bond, recognizance or undertaking upon which the debtor shall have been principal, surety or indemnitor, the trustees must retain in

¹ Previously amended by L. 1916, ch. 143.

² Remainder of section new.

their hands for such period or periods as the court having jurisdiction of the matter may by order direct a sum of money sufficient to pay a due or equal proportion of said dividend upon such contingent or unliquidated claim or liability if and when the same shall be established and liquidated.

§ 2. This act shall take effect immediately.

CHAPTER 161

AN ACT to amend the general municipal law, in relation to occupational therapy departments in connection with public general hospitals and tuberculosis hospitals or sanatoria.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and thirty-five-b of chapter twenty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to municipal corporations, constituting chapter twenty-four of the consolidated laws," as added by chapter four hundred and twenty of the laws of nineteen hundred and twenty-one, is hereby renumbered section one hundred and thirty-five-c, and such chapter is hereby amended by inserting therein a new section, to be section one hundred and thirty-five-b, to read as follows:

§ 135-b. Departments of occupational therapy in connection with public general hospitals and tuberculosis hospitals or sanatoria. Any municipal corporation maintaining a public general hospital or a hospital or sanatorium for the treatment of tuberculosis under the provisions of any general or special law may establish, equip and maintain, in connection therewith, a department of occupational therapy. For the purpose of this section occupational therapy is defined as any activity, mental or physical, prescribed, guided or supervised for any patient for the purpose of contributing to and hastening his recovery from disease or injury. The appropriate municipal authorities may appropriate or provide funds for the establishment, equipment and operation of such occupational therapy departments in the same manner as for the establishment, equipment and operation of such public general hospitals, tuberculosis hospitals or sanatoria. Such occupational therapy department shall be under the general superintendence, management and control of the municipal authority, board of managers, or other agency having general superintendence, management and control of the public general hospital, tuberculosis hospital or sanatorium to which it may be attached.

The chief medical officer of such public general hospital, tuberculosis hospital or sanatorium shall have authority to employ one or more occupational therapists to carry on the work of such department under his supervision. The qualifications of occu-

L. 1909,
ch. 29,
§ 135b, as
added by
L. 1921,
ch. 420,
renumbered
§ 135c;
now § 135b
added.

pational therapists so employed shall be defined by the public health council.

The chief medical officer of the institution may sell any article made or manufactured by any patient in his prescribed curative work carried on in such occupational therapy department to such patient upon payment by such patient to such chief medical officer of a sum not less than the cost of the material or materials from which such article was made or manufactured. Such chief medical officer may, in behalf of any patient, dispose of any article, made or manufactured by him, at public or private sale, and from moneys derived from the sale of such article he may pay to the patient such portion thereof that the residue shall at least equal the cost of the material or materials.

Except in the case of hospitals or sanatoria maintained by counties having a county purchasing agent, the municipal authority, board of managers, or other agency having general superintendence, management and control of such public general hospital, tuberculosis hospital or sanatorium, may place the moneys accruing to the occupational therapy department, from the two sources hereinabove mentioned, in a fund, to be known as "The Occupational Therapy Fund." The moneys in such fund at any time shall not exceed the sum of five hundred dollars. All receipts in excess of such sum, or all receipts, if such fund be not established, shall be paid into the treasury of the municipal corporation operating such hospital or sanatorium. The chief medical officer of the institution may directly purchase with moneys from "The Occupational Therapy Fund," if such a fund shall have been established, such materials, in addition to those provided for the operation of such occupational therapy department as hereinabove authorized, as are necessary to the proper functioning of such department.

The chief medical officer may, in his discretion and if he deems such course to be in the best interest of any patient, temporarily withhold any or all moneys earned by such patient and shall give such moneys to such patient upon discharge.

Certain
acts, etc.,
legalized.

§ 2. All such occupational therapy departments heretofore established, all appointments of such occupational therapists heretofore made, all sales heretofore made of such articles made or manufactured by patients, all payments heretofore made to patients of moneys derived from the sale of articles manufactured by them in excess of the cost of the material or materials entering into their manufacture, all such "Occupational Therapy Funds" heretofore established, and all purchases heretofore made of materials and supplies used and to be used in the manufacture of such articles and paid for from moneys in such "Occupational Therapy Funds," are hereby ratified, confirmed and legalized.

§ 3. This act shall take effect immediately.

CHAPTER 162

AN ACT to amend the highway law, in relation to state aid for the construction or improvement of highways or roads by a county other than county highways.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as amended¹ by chapter eight hundred and forty of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

L. 1909,
ch. 30,
§ 230b, as
added by
L. 1920,
ch. 940,
amended.

§ 320-b. **State aid to counties for the construction or improvement of highways or roads.** There shall be paid by the state, annually, to the several counties, in the manner hereinafter provided, an amount equal to the amount levied or provided therein for the construction and improvement of highways or roads in accordance with the provisions of section three hundred and twenty or three hundred and twenty-a of this chapter or any other general or special law authorizing the levy of county taxes or raising of funds by county obligations for the construction and improvement of highways or roads within a county, other than county highways, except that no county shall receive from the state in any year under this section an amount exceeding thirty dollars per mile for the total mileage of the highways in such county outside of cities and incorporated villages; such mileage to be determined by the tables prepared by the commissioner of highways, pursuant to subdivision twelve of section fifteen of this chapter, as filed in the office of the comptroller. The clerk of the board of supervisors of each county shall, upon or before the first day of January in each year, transmit to the state comptroller and the commissioner a statement, signed and verified by the chairman of the board, and certified by the clerk, which shall state the total amount of county taxes levied therein or moneys provided by county obligations for the construction and improvement of such highways or roads. The comptroller shall determine the amount due to the several counties, under the provisions of this section, and shall draw his warrant upon the state treasurer in favor of the county treasurer of each county for the total amount to be paid to such county. ²The moneys paid by the state together with an equal amount appropriated by the county and moneys appropriated by the towns shall become a common fund for the purpose of determining the places where and the manner in which such money shall be expended as provided herein. The board of supervisors

¹Should read: "added."

²Following sentence new.

of any county shall determine the place where and the manner in which such money shall be expended for the construction and improvement of highways or roads, pursuant to the provisions of section three hundred and twenty or three hundred and twenty-a of this chapter, or pursuant to any other general or special law authorizing county aid in the construction and improvement of highways or roads within the county other than county highways. Such determination shall be in triplicate signed by the chairman and clerk of the board and be approved by the state highway commission before the same shall take effect. One of such triplicates shall be filed in the office of the board of supervisors, one in the office of the district and county superintendent of highways and one in the office of the state highway commission. Reports of the expenditure of such moneys shall be made as follows: In a county in which highways or roads are constructed or improved, pursuant to sections three hundred and twenty or three hundred and twenty-a of this chapter, reports shall be made by the supervisors in the manner, so far as practicable, provided by section one hundred and seven of this chapter; in a county in which the towns contribute no portion of the cost of construction or improvement of such highways or roads, the county treasurer shall file with the clerk of the board of supervisors a report of all such expenditures, who shall cause the same to be printed in the next issue of the annual proceedings of the board of supervisors, and shall transmit three copies of the journal of the proceedings of the board containing such report to the commission and three copies to the comptroller.

§ 2. This act shall take effect immediately.

CHAPTER 163

AN ACT to amend the town law, in relation to the establishment and maintenance of sewer systems outside of incorporated cities and villages.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 62,
§ 236, as
amended by
L. 1913,
ch. 73,
amended.

Section 1. Section two hundred and thirty-six of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as amended by chapter seventy-three of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:¹

§ 236. Acquisition of property by purchase or condemnation. The sewer commissioners may from time to time acquire, by condemnation or purchase, such real estate, right of ways, and easements to and into real estate, as they may deem necessary for the proper erection, construction and operation of said system, or

¹ Section materially amended.

any extensions thereof, whether the property and easements necessary to be acquired are within the territorial limits of the sewer district as established, or extended, and may dispose, by deed or otherwise, of the whole or any part of such real estate and easements previously acquired, but always at public sale, to the most favorable bidder or bidders, notice of which sale shall be given in the manner provided by law, for the sale of lands under an execution, provided that the owner from whom the real estate or easements have been acquired shall have the right to purchase such real estate or easements from the town at the highest price bid for the same at public sale, such right to be exercised by the former owner within thirty days after the date of the public sale, said sewer commissioners may enter into an agreement with the board of trustees or other duly authorized officers of an adjoining incorporated village, to sewer some part or portion of such incorporated village, and to lay and maintain pipes therein, and when pipes are laid and maintained, and sewer system constructed within the limits of an adjoining incorporated village pursuant to an agreement so made, the sewer commissioners shall have the same control and exercise the same rights and privileges in connection with the system constructed within the limits of an incorporated village as they have in connection with the system established within the sewer district as laid out.

§ 2. This act shall take effect immediately.

CHAPTER 164

AN ACT to amend the revised charter of the city of Syracuse, in relation to the boundaries of the first and seventh wards.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section four of chapter twenty six of the laws of eighteen hundred and eighty-five, entitled "An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city," as last amended by chapter four hundred and twenty-nine of the laws of nineteen hundred and seventeen,¹ is hereby amended to read as follows:

1. First ward. All that part of said city bounded as follows: Beginning at the intersection of the city line with the center line of Court street, running thence along the center line of Court street to the center line of the Oswego canal; thence southeasterly along the center line of said canal to a point in range with the southeasterly line of marsh lot number thirty-four; thence south-

¹ Previously amended by L. 1909, ch. 324.

L. 1885,
ch. 26,
§ 4,
subd. 1,
as amended
by L. 1917,
ch. 429,
amended.

westerly to and along said line of marsh lot number thirty-four to the center line of the barge canal; thence along the center line of the barge canal² and the same prolonged into Onondaga lake to an intersection with the northwesterly line of the city; thence northeasterly by the several other courses and distances along the boundary line of the city to the place of beginning, shall constitute the first ward.

§ 4.
subd. 7, as
amended by
L. 1905,
ch. 185,
amended.

§ 2. Subdivision seven of section four of such act, as last amended by chapter one hundred and eighty-five of the laws of nineteen hundred and five,³ is hereby amended to read as follows:

Subdivision 7. Seventh ward. All that part of said city bounded as follows: Beginning at the intersection of the center of the Oswego canal with the center of West Belden avenue and running thence northerly along the center of the Oswego canal to a point in range with the southeasterly line of marsh lot number thirty-four; thence southwesterly to and along said line of marsh lot number thirty-four to the center of the barge canal; thence along the center line of the barge canal⁴ and the same prolonged into Onondaga lake to the northwesterly line of the city; thence southwesterly along said city line to the center of the Erie canal; thence southeasterly along the center of the Erie canal to a point opposite to a center line of Harbor brook; thence northwesterly along the center of Harbor brook to the center of West Genesee street; thence easterly along the center line of West Genesee street to the center of Sand street; thence northerly along the center line of Sand street to the center of West Belden avenue, and thence easterly along the center line of West Belden avenue to the place of beginning, shall constitute the seventh ward.

§ 3. This act shall take effect immediately.

CHAPTER 165

AN ACT to amend the town law, in relation to requiring in towns of certain counties notice of the construction or improvement of buildings.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 142b
added to
L. 1909,
ch. 63.

Section 1. Article six of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," is

² Words "the barge canal; thence along the center line of the barge canal," substituted for words "old channel of Onondaga creek; thence down along the center of the old channel of Onondaga creek."

³ Previously amended by L. 1887, ch. 368; L. 1890, ch. 110; L. 1892, ch. 571; L. 1893, ch. 3; L. 1898, ch. 81; L. 1899, ch. 361; L. 1904, ch. 105.

⁴ Words "the barge canal; thence along the center line of the barge canal," substituted for words "Onondaga creek; thence down along the center of the present channel of said creek."

hereby amended by adding at the end thereof a new section, to be section one hundred and forty-two-b, to read as follows:

§ 142-b. Notice required in certain towns of construction or improvement of buildings. The town board of any town in a county having a population of less than two hundred thousand as shown by the last federal census or state enumeration, having an assessed valuation of more than fifty million dollars, and adjoining a city of the first class having a population of more than one million, by resolution duly adopted at a meeting of such board, may determine that after a date specified in the resolution, a building or other structure shall not be constructed or improved in such town at a cost in excess of an amount stated in such resolution, which stated amount shall be not less than two hundred and fifty dollars, until a notice has been filed and certificate issued as required by this section. A copy of such resolution to which shall be attached a copy of this section shall be posted in at least five conspicuous public places in such town at least ten days before such resolution takes effect. Thereafter the owner or occupant of premises in such town shall not construct or improve any building or other structure thereon, at a cost in excess of the amount stated in such resolution, without filing in the office of the board of assessors of such town, or if the premises are situated within a village, with the clerk of such village, a notice of intention to make such construction or improvement, and procuring from such board or clerk a certificate that such notice has been filed. Such notice shall be in writing, on a blank prepared and furnished by the board of assessors of such town and adapted for filing either with such board or with a village clerk, and shall specify the name of the owner or occupant, that construction or improvement of a building or other structure is contemplated which will cost more than a sum specified, which shall be the amount stated in the resolution of the town board and shall contain a description or other designation of the premises sufficient to identify the same. Such notice may be filed either personally or by mail. Upon the filing of such notice, the board of assessors or village clerk, as the case may be, shall issue a certificate that such notice has been duly filed, which certificate shall be in a form prescribed by the board of assessors of such town and adapted for use either by such board or by a village clerk. The certificate shall specify the name of the owner or occupant, shall state that the notice has been duly filed and shall describe or designate the premises to which it pertains. A village clerk upon the issuance of such a certificate shall, within five days thereafter, file a certified copy thereof in the office of the board of assessors of the town in which the premises are located. The board of assessors of such a town shall be entitled to charge a fee of twenty-five cents for the issuance of a certificate pursuant to this section, to be held for the use and benefit of such town, and the board of trustees of any village to which this section is applicable may prescribe the fee, which shall not exceed twenty-five cents, for the issuance of such a certificate by the clerk of

the village, to be held for the use and benefit of such village. Any owner or occupant of premises in such a town who shall construct or cause to be constructed any building or structure, or make or cause to be made any improvement to any building or structure, subject to the provisions of this section, without having filed the notice and obtained the certificate as required by this section, shall be liable to a penalty of one hundred dollars for each such violation, recoverable in any court of competent jurisdiction, by the board of assessors of the town for the use and benefit of the town.

§ 2. This act shall take effect immediately.

CHAPTER 166

AN ACT to amend the revised charter of the city of Syracuse, in relation to the boundary of such city.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1885,
ch. 24,
§ 2, as
amended by
L. 1921,
ch. 631,
amended.

Section 1. Section three of chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled "An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city," as last amended by chapter five hundred and thirty-one of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 3. The boundaries of said city shall be as follows: Beginning at the northeast corner of the Onondaga salt springs reservation and the southeast corner of lot number twenty-eight of the military township of Manlius, and running thence westerly along the north line of said salt springs reservation to the west line of plot A, Galster's homestead, according to a map of Melrose park filed in the office of the clerk of Onondaga county June seventh, nineteen hundred and twelve; thence north along said west line to a point in line with the north line of lots seven, eight and nine of said Melrose park; thence west in said north line to the east line of Amelia street; thence westerly across Amelia street to the north line of lots ten and eleven of said park; thence west along the north line of lots ten and eleven of said park to the east line of Woodlawn cemetery; thence northerly along the east line of said cemetery to the north line of said cemetery; thence westerly along the north line of said cemetery and the same line produced to the west line of military lot

¹ Previously amended by L. 1887, ch. 368; L. 1899, ch. 361; L. 1907, ch. 553; L. 1908, ch. 170; L. 1909, ch. 324; L. 1914, ch. 282; L. 1915, ch. 527; L. 1917, ch. 429; L. 1920, ch. 574.

number twenty-eight; thence northerly along the west line of military lot number twenty-eight to its intersection with the northeasterly line of Orchard terrace; thence northwesterly along the northeasterly line of Orchard terrace and its prolongation across Court street to a point* one hundred and thirty-two feet northwesterly at right angles from the northwesterly line of Court street; thence southwestly parallel to Court street and one hundred and thirty-two feet therefrom to a point in the southwestly line of Assumption cemetery; thence northwesterly along said southwestly line of said cemetery to the southeasterly line of subdivision forty-five of military lot twenty-seven, Manlius; thence southwestly along the southeasterly line of said subdivision forty-five to the division line between lots one hundred and thirty-five and one hundred and thirty-six of Le Moyne park; thence northwesterly along said division line to the southeast line of Broadway avenue; thence northwesterly across Broadway avenue to the northwest line thereof at the division line between lots fifty-five and fifty-six of said Le Moyne park; thence northwesterly along said division line to the northwesterly line of the tier of lots fifty-one to fifty-eight inclusive; thence northeasterly along said northwesterly line of the tier of lots fifty-one to fifty-eight inclusive to the middle line of the block between Main and High streets; thence northwesterly along said middle line of the block to the southeasterly line of Le Moyne street; thence westerly crossing Le Moyne street diagonally to a point in the line between subdivisions forty-one and twelve of military lot twenty-seven, Manlius (now Salina), two hundred and fifty feet northwesterly from the northwesterly line of Le Moyne street; thence southwestly parallel with the northwesterly line of subdivision twelve to the line between subdivisions twelve and eleven of military lot twenty-seven; thence northwesterly along said line between subdivisions twelve and eleven to the northwesterly line of said subdivisions; thence southwestly along the northwesterly line of subdivisions eleven, ten, nine and eight to the northeasterly line of subdivision seven of said military lot twenty-seven, Manlius (now Salina); thence northwesterly along the prolonged and northeasterly lines of subdivisions seven and one to the center line of Wolf street; thence southwestly along said center line of Wolf street to said reservation line; thence northwesterly along said reservation line to the northwesterly bank of the present channel of Bear Trap creek at or near the northerly line of marsh lot number forty-seven; thence southwestly along the northwesterly bank of the present channel of said creek to the northerly line of marsh lot eighteen;

* Words "its intersection with the northeasterly line of Orchard terrace; thence northwesterly along the northeasterly line of Orchard terrace and its prolongation across Court street to a point," substituted for words "a point one hundred and thirty-two feet at right angles from the northeasterly line of boulevard; thence northwesterly parallel to boulevard and one hundred and thirty-two feet therefrom to and across Court street to a point in the continuation of the last described line."

thence westerly along said line to the northeasterly line of Spring street; thence northwesterly along said northeasterly line of Spring street and the northeasterly line of the Liverpool road to a point opposite the most northerly corner of marsh lot number twenty-two in said reservation; thence southwesterly across said Liverpool road and along the northwesterly lines of said marsh lot number twenty-two and reclaimed lot number three to low-water mark of Onondaga lake; thence in a straight line southwesterly across said lake to the most northerly corner of reclaimed lot number thirty-nine; thence southwesterly along the northwesterly line of said reclaimed lot number thirty-nine and of farm lot number fifty-four of said salt springs reservation, to the blue line, so-called, of the enlarged Erie canal; thence westerly along said blue line to a point in range with the southwesterly line of Willis avenue (formerly Quince street); thence southeasterly to and along said line of Willis avenue to the northerly line of lands of the Auburn branch of the New York Central and Hudson River railroad; thence westerly along said line of said railroad lands to the west line of farm lot number three hundred and thirty of said salt springs reservation; thence southerly along the westerly line of farm lots numbers three hundred and thirty and one hundred and forty-three to the southwest corner of said farm lot number one hundred and forty-three; thence easterly along the southerly line of said farm lot number one hundred and forty-three to a point in a northwesterly prolongation of the southwesterly line of Myrtle street; thence southeasterly in a straight line to and along said line to Myrtle street to the center line of West Genesee street; thence southwesterly along the center line of West Genesee street to its intersection with the northerly prolongation of the division line between farm lots three hundred and thirty-one and one hundred and sixty-seven, Onondaga salt springs reservation; thence southerly along said division line to the point of intersection with the prolongation southwesterly of the northwesterly line of Cayuga street; thence northeasterly along said prolongation to a point one hundred and ten feet southwesterly from the southwesterly line of Myrtle street; thence southeasterly parallel with Myrtle street and one hundred and ten feet therefrom to the northwesterly line of Geddes cemetery; thence southwesterly, southeasterly and northeasterly along the northwesterly, southwesterly and southeasterly lines of said cemetery to the southwesterly line of Myrtle street; thence southeasterly along said line of said street and a prolongation thereof to a point one hundred and thirty-two feet south of the south line of Tompkins street; thence northeasterly parallel with Tompkins street and one hundred and thirty-two feet therefrom to the westerly line of Avery avenue (formerly Onondaga Hill road, so-called); thence southerly along said westerly line of said Avery avenue to the south line of block two, Avery tract; thence west along said south line to a point one hundred and ten feet east of the east line of Homer avenue (Avery tract); thence south parallel with Homer avenue and one hun-

dred and ten feet therefrom to the north line of Grand avenue; thence south across Grand avenue to the south line thereof where a line parallel with Avery avenue south of Grand avenue and one hundred and thirty-two feet at right angles west therefrom intersects; thence south parallel with Avery avenue and one hundred and thirty-two feet therefrom to the south line of farm lot one hundred and sixty-six, Onondaga salt springs reservation; thence west along said south line to the south line of the right of way of the Auburn and Syracuse electric railway; thence southwesterly along said right of way to the west line of the Merrel farm on lot seventy-three, Onondaga; thence south along said west line of said Merrel farm to and across Bellevue avenue and continuing south on said line and its prolongation to a point far enough south to intersect a line drawn parallel with the south line of lots seventy-three and seventy-four, Onondaga, and passing through the intersection of Avery avenue and Wadsworth street; thence east along said line to the intersection of the center lines of Avery avenue and Wadsworth street; thence south along the center line of Avery avenue to a point one hundred and thirty-two feet southwesterly at right angles from the southwest line of Wadsworth street; thence southeasterly parallel with Wadsworth street and one hundred and thirty-two feet therefrom to the east line of the Holy Rosary property; thence south along the east line of said property far enough so that a line drawn east and west parallel with the south line of lot seventy-four, Onondaga, will strike an angle in the west boundary of the Woodland reservoir property; thence south eighty-five degrees eight minutes east, two hundred and thirty and ninety-five one hundredths feet; thence south five degrees thirty-three minutes east, to a point in a line which is one hundred and thirty-two feet south of the south line of Glenwood avenue; thence easterly one hundred and thirty-two feet from and parallel with the southerly line of Glenwood avenue to the west line of lot number ninety-one; thence south along the west line of lots numbers ninety-one and one hundred and six to the southeast line of Englewood avenue; thence northeast along said southeast line to the west bounds of Saint Agnes' cemetery; thence along said cemetery south one degree twenty-five minutes east, six hundred and ninety-four feet; thence along the southerly bounds of said Saint Agnes' cemetery, as now constituted, to the northwest corner of the Norris land; thence east along the north line of the Norris land and the north line of the Walnut Grove tract, so-called, to the center of the mill race leading from Onondaga creek; thence northwesterly and northerly along the center of said raceway to the left bank of Onondaga creek, thence up and along the left or westerly bank of Onondaga creek to and across Midland avenue and to the north line of the so-called Anderson tract in the town of Onondaga; thence easterly along the north line of the Anderson tract and the southerly line of the Tucker tract to the center line of South Salina street; thence easterly along the division line of property between Alvord-Anderson

and Colonel Teall to the easterly line of lot one hundred and eight, Onondaga; thence northerly along the easterly line of said lot to a point ninety-four and thirty-eight one-hundredths feet southerly from the northwest corner of lot one hundred and nine, Onondaga; thence easterly parallel with the north line of lot one hundred and nine to the easterly line of the lands of the Syracuse, Binghamton and New York Railroad Company; thence northerly along said line to the southerly line of lot ninety-four; thence easterly along the south line of said lot number ninety-four and lot number ninety-five to the east line of said reservation; and thence northerly along the east line of said reservation and of the Onondaga salt springs reservation aforesaid to a point four thousand five hundred and four and five-tenths feet south of the intersection of the center line of East Genesee street and the west line of military lot number forty-nine of the town of De Witt; thence southeasterly sixteen hundred and forty-three and four-tenths feet from the west line of military lot number sixty of the town of De Witt and along the north line of lands belonging to Harry Horton and William Clark to the southwest corner of land belonging to John O. Knapp; thence northerly along the west line of land belonging to John O. Knapp to a point one hundred and thirty-two feet southerly from the south line of the Syracuse and Fayetteville plank road; thence southeasterly and parallel with and one hundred and thirty-two feet from the south line of the said plank road to a point in the southerly prolongation of the easterly line of the East Genesee Heights tract; thence northerly along said prolonged line and the easterly line of the East Genesee Heights tract to a point seven hundred and eighty feet southerly from the south line of the Salt Springs road; thence northeasterly and parallel with and seven hundred and eighty feet from the southerly line of the Salt Springs road to a point in the southeasterly corner of land now owned by Hugh P. Baker; thence southeasterly to a point in the east line of lot forty-nine De Witt, said point being eleven hundred and sixty feet southerly along said lot line from the center line of the Salt Springs road; thence northerly along said east line of said lot to a point one hundred and thirty-two feet north of the north line of said Salt Springs road; thence southwesterly one hundred and thirty-two feet therefrom and parallel with the north line of the Salt Springs road to the east line of the Montclair tract; thence northerly along the easterly line of the Montclair tract and its prolongation northerly to the most southerly line of the village of Eastwood; thence southwesterly along the most southerly line of the village of Eastwood to its intersection with the Onondaga salt springs reservation line and thence northerly along the easterly line of the Onondaga salt springs reservation to the place of beginning.

§ 2. This act shall take effect immediately.

CHAPTER 167

AN ACT to amend the highway law, in relation to the hire of machinery.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter one hundred and seventy-three of the laws of nineteen hundred and nineteen¹ is hereby amended to read as follows: L. 1909,
ch. 30,
§ 50, as
amended by
L. 1919,
ch. 173,
amended.

§ 50. **Town superintendent may hire machinery.** The town superintendent may, with the approval of the district or county superintendent, lease or hire stone crushers, steam rollers, motor trucks, scarifiers, concrete mixers and traction engines at a rate to be approved by the town board, which shall not exceed twenty dollars for a stone crusher, steam roller or motor truck, eight dollars for a scarifier or concrete mixer and fifteen dollars for a traction engine, for each day such stone crusher, steam roller, motor truck, scarifier, concrete mixer or traction engine is actually used upon the highway. The expense thereof shall be paid by the supervisor, upon the written order of the town superintendent, out of moneys received by him, as provided in this chapter, for the repair and improvement of highways. ²The moneys paid as herein provided for the hire of machinery and implements may with the consent of the town board and county superintendent of highways be applied on the payment for the purchase price of such machinery.

§ 2. This act shall take effect immediately.

CHAPTER 168

AN ACT to amend the insanity law, in relation to the visitation of institutions for the insane.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight of chapter thirty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the insane, constituting chapter twenty-seven of the consolidated laws," is hereby amended to read as follows: L. 1909,
ch. 22,
§ 8, as
amended.

¹ Previously amended by L. 1918, ch. 329.

² Following sentence new.

§ 8. **Official visits.** The commission, or a majority thereof, shall visit every such state hospital jointly or by a majority of the commission and shall visit¹ every such private institution by one member of the commission or by the medical inspector,² at least twice in each calendar year. Such visits shall be made on such days and at such hours of the day or night, and for such length of time, as the visiting commissioner or the medical inspector³ may choose. But each commissioner may make such other visits as he or the commission may deem necessary. Each visit shall include, to the fullest extent deemed necessary, an inspection of every part of each institution, and all the out-houses, places, buildings and grounds belonging thereto or used in connection therewith. The commissioners shall, from time to time, make an examination of all the records and methods of administration, the general and special dietary, the stores and methods of supply, and, as far as circumstances may permit, of every patient confined therein, especially those admitted since the preceding visit, giving such as may require it suitable opportunity to converse with the commissioners or the medical inspector⁴ apart from the officers and attendants. The commission or medical inspector⁴ shall, as far as is deemed⁵ necessary, examine, the officers, attendants and other employees, and make such inquiries as will determine their fitness for their respective duties. At the next regular or special meeting of the commission, after any such a visit, the visiting commissioners or the medical inspector⁴ shall report the result thereof, with such recommendations for the better management or improvement of any such institution, as⁶ may be deemed necessary. But such recommendations shall not be contrary to the doctrines of the particular school of medicine adopted by such institutions. The commissioners shall, at least once each year, at a time to be appointed by the commission, meet the managers of such institutions, or as many of the number as practicable in conference, and consider, in detail, all questions of management and improvement of the institution, and they or one or more of them with the managers shall inspect the institution or such parts thereof as they may deem necessary and shall also send to the managers, in writing, if approved by a majority of the commissioners, such recommendations in regard to the management and improvement of the institution as they may deem necessary or desirable.

§ 2. This act shall take effect immediately.

¹ Words "shall visit" new.

² Words "or by the medical inspector" new.

³ Words "or the medical inspector" new.

⁴ Words "The commission or medical inspector" substituted for word "They."

⁵ Words "is deemed" substituted for words "they deem."

⁶ Remainder of sentence formerly read: "they may deem necessary."

CHAPTER 169

AN ACT to amend the judiciary law, in relation to the appointment of an additional interpreter for Westchester county.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," is hereby amended by adding a new section, to be section three hundred and ninety-one thereof, and to read as follows:

§ 391. **Appointment of additional interpreter for Westchester county.** In addition to the interpreter authorized appointed under section three hundred and eight-seven, the county judge and district attorney of the county of Westchester may appoint one additional interpreter for such county and all the provisions of such section applicable shall apply thereto.

§ 2. This act shall take effect immediately.

CHAPTER 170

AN ACT to amend the judiciary law, in relation to the office of certain confidential attendants and clerks to the justices of the supreme court.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," is hereby amended by inserting therein a new section, to follow section one hundred and seventy-one, to be section one hundred and seventy-two, and to read as follows:

§ 172. **Continuation in office of certain attendants and clerks.** A confidential attendant or clerk to a justice of the supreme court shall, upon the death or retirement of such justice, continue in office until an appointment of a confidential attendant or clerk shall be made by the justice elected or appointed to fill such vacancy.

§ 2. This act shall take effect immediately.

CHAPTER 171

AN ACT to amend the justice court act, in relation to transfer of action or proceeding.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 477
amended.

Section 1. Section four hundred and seventy-seven of the justice court act is hereby amended to read as follows:¹

§ 477. **Transfer of action or proceeding.** If the term of office of a justice of the peace is about to expire, he is about to remove from the town or city or it becomes impossible for him to act therein, he shall make a written order reciting the fact, and directing any action or special proceeding then pending before him to be continued before another justice of the same town or city named in such order.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 172

AN ACT for the acceptance by the state of New York as a gift from Knox Headquarters Association, Incorporated, of a parcel of land containing about fifty acres, which is located in the town of New Windsor, in Orange county, whereon stands the mansion occupied at times during the Revolutionary War by Major General Nathaniel Greene, Major General Henry Knox and Major General Horatio Gates as headquarters, and for the care of the same.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Convey-
ance ac-
cepted.

Section 1. The conveyance to the state of New York from Knox Headquarters Association, Incorporated, of that parcel of land located in the town of New Windsor, in Orange county, comprising about fifty acres of land whereon stands the mansion which was occupied at divers times during the Revolutionary war as headquarters by Generals Greene, Knox and Gates, is hereby accepted by the state of New York, subject to provisions of this act, as a gift from said Knox Headquarters Association, Incorporated, and shall be perpetually preserved as a memorial of the events of the revolution.

Descrip-
tion of
land
conveyed.

§ 2. The parcel of land so to be conveyed is bounded as follows, namely: Beginning at the point of intersection of the center line of the state road which leads from the city of Newburgh to Vails Gate and the center line of the public highway known as

¹ Section materially amended.

the Forge Hill road, and running thence along the center of said Forge Hill road, in a southeastwardly, eastwardly and northeastwardly direction, to the line of lands formerly of William H. Harris; thence along the said last mentioned lands in a southeastwardly direction, to the Moodna creek; thence up said creek, in a southwestwardly direction, to the line of lands now or formerly of John Scanlon; thence along said last mentioned lands, in a northwestwardly direction, to the line of lands now or formerly of John Deisseroth and Marie T. Campbell; thence along said last mentioned lands, in an eastwardly direction, to the westerly side of a private road or lane; thence along said last mentioned lands and along the westerly side of said private road or lane, in a northwardly direction, to the center of the aforesaid state road, and thence, in a northeastwardly direction, along the center of said state road, to the point or place of beginning, containing forty-eight acres of land, be the same more or less.

§ 3. Such conveyance shall be by deed satisfactory to the attorney-general as to its form and manner of execution and said premises shall be absolutely free and clear from any and all liens, charges and encumbrances except only the lease thereof held by John L. Wilke, which will expire on October first, nineteen hundred and twenty-four.

Conveyance, how made; encumbrances.

§ 4. Whenever the attorney-general shall be satisfied that the property aforesaid will be conveyed to the state in fee, by a good and marketable title, free and clear from liens, charges and encumbrances, excepting only the aforesaid lease thereof, he shall accept the conveyance thereof in behalf of the state and cause the same to be recorded.

Attorney-general to accept conveyance.

§ 5. Such premises shall be held and preserved by the state perpetually as a memorial of the important events connected with our Revolutionary war which have occurred there and of the famous men who have made it their military headquarters. The dwelling house shall be open at all suitable and reasonable times to the inspection of visitors without charge.

To be held as memorial.

Open to visitors.

§ 6. Said property shall be under the charge and supervision of the trustees of Washington's Headquarters at Newburgh, New York. Said trustees shall rent out such portions thereof as can be rented without interfering with the purposes expressed in section five of this act. The rents received by said trustees shall be remitted forthwith to the state treasurer, and shall be appropriated so far as necessary toward the maintenance and repair of the buildings on said premises.

Charge of property.

Portions may be rented.

§ 7. The trustees of Washington's Headquarters shall report annually to the state comptroller as to all their acts and transactions in connection with the premises which are hereby put in their charge and especially as to all their receipts and disbursements in connection therewith. They shall not make any such disbursements nor contract any debt or obligation unless or until they are specifically authorized so to do by act of the legislature.

Annual report.

Disbursements, etc.

§ 8. This act shall take effect immediately.

CHAPTER 173

AN ACT to amend chapter three hundred and sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to the repaving of streets and highways in the city of Mount Vernon which have once been paved at the expense of abutting property, in whole or in part, and authorizing such city to raise money therefor by the issue of bonds," in relation to increasing the amount of such bonds.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 361,
§ 1, as
amended by
L. 1921,
ch. 86,
amended.

Section 1. Section one of chapter three hundred and sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to the repaving of streets and highways in the city of Mount Vernon which have once been paved at the expense of abutting property, in whole or in part, and authorizing such city to raise money therefor by the issue of bonds," as last amended by chapter eighty-six of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

Bond issue
for repav-
ing certain
streets,
authorized.

§ 1. The common council of the city of Mount Vernon is hereby authorized and empowered, by resolution adopted by it, to issue and sell bonds in the name, in behalf and upon the credit of said city, in an amount not exceeding in the aggregate eight hundred thousand dollars,² with interest payable semi-annually at a rate not exceeding six per centum; the principal and interest thereof to be payable at the office of the treasurer of said city, for the purpose of paying the cost of repaving such streets of the city as have been once paved at the expense of the abutting property, in whole or in part, as may be directed by the common council. Such bonds to be issued under the provisions of this act shall be serial numbered bonds, payable in not more than ten equal annual installments, the longest term of any of which shall be not more than ten years from date of issue. Whenever any bonds shall be issued under the terms of this act the common council shall provide for and raise in the annual tax levy a sum sufficient to pay the principal and interest of the bonds issued under this act falling due in that year until the total amount of the bonds so issued shall be paid and retired.

Tax for
payment.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1912, ch. 159; L. 1916, ch. 477.

² Formerly "six hundred thousand dollars."

CHAPTER 174

AN ACT to amend chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' and the acts amending the same," in relation to the police department fund.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section thirty-one of chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' and the acts amending the same," as added by chapter five hundred and twenty-five of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

1. For the police department, for salaries, supplies and expenses, a sum not exceeding fifteen thousand dollars.¹

§ 2. This act shall take effect immediately.

CHAPTER 175

AN ACT to amend chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' and the acts amending the same," in relation to the fire department fund.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section thirty-one of chapter eighty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to amend chapter three hundred and thirty-five of the laws of eighteen hundred and sixty-eight, entitled 'An act to incorporate the city of Ogdensburg,' and the acts amending the same," as added by chapter five hundred and twenty-five of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

2. For the fire department, for salaries, supplies, and expenses,* a sum not exceeding eighteen thousand dollars.²

§ 2. This act shall take effect immediately.

* So in original. [Word misspelled.]

¹ Formerly "ten thousand dollars."

² Formerly "fifteen thousand dollars."

CHAPTER 176

AN ACT in relation to the extension, improvement and development of the water works, water plant and water supply of the city of Ogdensburg, and the issuance, sale and redemption of city bonds therefor.

Accepted by the City.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Bond issue
authorized.

Applica-
tion of
proceeds.

Bonds;
maturity,
interest,
execution,
etc.

Sale.

Disposi-
tion of
proceeds.

Tax for
payment
of residue.

Section 1. The common council of the city of Ogdensburg may borrow, upon the credit of said city, a sum of money, not to exceed in the aggregate the sum of one hundred thousand dollars, for the extension, improvement and development of the water works, water plant and water supply of said city. Such common council may cause to be issued the bonds of said city to provide for the payment of the moneys so borrowed. Said bonds shall be sold at such time and in such amounts as the common council shall determine to be required for such purpose. The proceeds of the sale of said bonds shall be used for the payment of any and all obligations and contracts incurred or entered into by the board of water commissioners of said city for the extension, improvement and development of the water works, water plant and water supply of said city. The principal of the bonds so issued shall be payable as follows: Five thousand dollars on the first day of June, nineteen hundred and twenty-three, and a like amount on the first day of June of each succeeding year to and including the year nineteen hundred and forty-two. Said bonds shall bear interest from the date of issue at such a rate as the common council shall determine, not, however, to exceed five per centum per annum, payable semi-annually on the first day of December and June in each year. Such bonds shall be signed by the mayor of said city under the seal of said city, and countersigned by the city clerk, and a true record thereof shall be kept by the said common council and the said board of water commissioners. Said bonds shall be payable in the city of Ogdensburg, or in the city of New York, as the common council shall determine, and may be registered or coupon bonds and shall be numbered in consecutive order, and if coupons are attached they shall be numbered to correspond with the bonds. Said bonds shall be sold by the treasurer of said city, under the direction of the common council, at not less than par, and the moneys received thereon shall be paid to the treasurer of said city and placed to the credit of the water fund of said city, and said treasurer shall give such undertaking for the accounting of all moneys received by him and for the faithful discharge of his duties as shall be required by said common council.

§ 2. The residue of the moneys, if any, necessary to pay such bonds and interest at maturity, after applying the net earnings

from the water works available therefor, shall be levied and collected upon the taxable property of said city as other taxes are directed to be levied and collected and the same paid by said city.

§ 3. This act shall take effect immediately.

CHAPTER 177

AN ACT to amend the prison law, in relation to the compensation of prisoners in the state prisons.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-five of chapter forty-seven of the laws of nineteen hundred and nine, entitled "An act relating to prisons, constituting chapter forty-three of the consolidated laws," as last amended by chapter two hundred and six of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:²

L. 1909,
ch. 47,
§ 185, as
amended by
L. 1919,
ch. 206,
amended.

§ 185. **Earnings of prisoners.** 1. Subject to the provisions of subdivision two of this section,³ every prisoner confined in the state prisons, reformatories and penitentiaries, and every prisoner serving sentence in the county jails, may, in the discretion of the managing authority of said institution, receive compensation from the earnings of the institution in which he is confined, such compensation to be graded by such managing authority for the time such prisoner may work, but in no case shall the compensation allowed pursuant to this subdivision⁴ to such convicts exceed in amount ten per centum of the earnings of the institution in which they are confined; provided, however, that any compensation allowed pursuant to this subdivision⁵ in excess of one and one-half cents per day shall be based upon an amount of work or labor performed by him at his option in excess of a given amount fixed for him to perform for the benefit of the state, or political subdivision thereof, and in such case his compensation may, in the discretion of such managing authority, be a sum equal to the value of the additional work or labor so performed or to the value of the product or portion thereof produced by such additional work or labor, except that his total compensation shall not in any case exceed the amount of twenty cents a day.

2.⁶ The superintendent of state prisons may adopt rules, which shall be subject to the approval of the governor, for establishing

¹ Previously amended by L. 1914, ch. 188; L. 1915, ch. 288.

² Division of § 185 into subdivisions new.

³ Words "subject to the provisions of subdivision two of this section," new.

⁴ Words "pursuant to this subdivision" new.

⁵ Words "allowed pursuant to this subdivision" new.

⁶ Matter in subd. 2 all new.

in all of the state prisons a system of compensation to the prisoners confined therein, for prison labor. Such rules shall provide for the payment of compensation to each prisoner who shall meet the requirements therein established, based upon the net average earnings of the industries for each prisoner in excess of the total average cost for each prisoner of all maintenance and operation for all the institutions under the prison department combined, except the Dannemora state hospital and the Matteawan state hospital, based on the amount as shown in the reports prepared from the institutional records for the immediately preceding fiscal year. The rules may also provide how a credit shall be set up for the prisoner for the value of such labor in excess of the cost of his maintenance, and the manner in which the value of such earnings shall be paid to the prisoner or held in trust for him by the superintendent until his release. Any amount credited to a prisoner under this subdivision, however, shall be subject to the deduction of fines, penalties and forfeitures. Until the adoption and approval of such rules, the compensation of prisoners in the state prisons shall be governed by the provisions of subdivision one.

3. The difference in the rate of compensation, under any provision of this section,⁷ shall be based both upon the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory, penitentiary or county jail, he shall forfeit out of the compensation allowed under this section such an amount as may be determined by the managing authority of any such institution, not to exceed twenty-five cents for each day of good time so forfeited. The managing authority of any such institution may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner.

4. If, at any time, the earnings from the industries of a prison are insufficient to provide for the payment hereafter of one and one-half cents per day to each prisoner, the superintendent of state prisons may transfer to such prison necessary moneys to provide for such payments, from moneys, if any, in the capital fund or funds of another state prison or prisons in excess of the needs of the latter institution or institutions; but the amount so transferred to a prison shall not exceed a sum which, together with its own moneys available for payments to prisoners, will provide for the payment of one and one-half cents per day to each prisoner, computed on the basis of its population.

§ 2. This act shall take effect immediately.

⁷ Words “, under any provision of this section” new.

CHAPTER 178

AN ACT to amend the public health law, in relation to dental societies and the practice of dentistry.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section one hundred and ninety-six of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as last amended by chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

4. Subsequently to receiving such preliminary education either has been graduated in course with a dental degree from a registered dental school, or else, having been graduated in course from a registered medical school with a degree of doctor of medicine, has pursued thereafter a course of special study of dentistry for at least two years in a registered dental school and received therefrom its degree of doctor of dental surgery, or else holds a diploma or license conferring full right to practice dentistry in some other of the United States or in some foreign country and granted by some licensing board, college, school or university registered by the regents as maintaining an educational standard equal to that required of dental colleges of this state, or else has lawfully practiced dentistry for more than twenty-five years without this state and within the United States; but the examination for those who have lawfully practiced for twenty-five years in other states shall be a practical examination only. The regents may also in their discretion on or after June first, nineteen hundred and sixteen, admit conditionally to the examination in anatomy, physiology, chemistry and metallurgy and histology, applicants nineteen² years of age certified as having studied dentistry not less than two years, including two satisfactory courses in two different calendar years, in a dental school registered as maintaining at the time a satisfactory standard, provided that such applicants meet the second and third requirements of candidates for examination. If a candidate fails on final examination, he may have a second examination without fee; but for every examination subsequent an additional fee of twenty-five dollars shall be required. Any member of the board may inquire of any applicant for examination concerning his qualifications and may take testimony of anyone in regard thereto, under oath, which he is hereby empowered to administer.

L. 1909,
ch. 49,
§ 194,
subd. 4, as
amended by
L. 1916,
ch. 129,
amended

Examina-
tions: pro-
fessional
education
or experi-
ence
required.

¹ Previously amended by L. 1911, ch. 786.

² Formerly "twenty."

§ 196,
subd. 5,
¶ B, as
amended by
L. 1916,
ch. 129,
amended.

§ 2. Paragraph B of subdivision five of section one hundred and ninety-six of such chapter, as last amended by chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen,³ is hereby amended to read as follows:

B. Evidence that they are at least nineteen² years of age and of good moral character.

§ 198,
subd. 2, as
amended by
L. 1916,
ch. 129,
amended.

§ 3. Subdivision two of section one hundred and ninety-eight of such chapter, as amended by chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

Permits to
graduates.

2. Upon recommendation of the board, the regents may issue a permit to graduates from the registered⁴ dental colleges⁵ to be employed in registered dental dispensaries, infirmaries and public institutions while under the direction or supervision of a licensed dentist in the interim between graduation and one year thereafter. This permit may be revoked for cause. No such permit shall be issued except such graduate has definite offer of a position in such dental dispensaries, infirmaries, or public institutions.

§ 203,
subd. a, as
amended by
L. 1916,
ch. 129,
amended.

§ 4. Subdivision a of section two hundred and three of such chapter, as amended by chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

Penalties.

a. A person who, in any county of this state, practices dentistry, not being at the time of said practice a dentist licensed to practice as such in this state and registered in the office of the clerk of such county, pursuant to the general laws regulating the practice of dentistry, is guilty of a misdemeanor and punishable upon conviction of a first offense by a fine of not less than fifty dollars⁶ and not more than five hundred dollars, or by imprisonment for not less than thirty days and not more than six months, or by both such fine and imprisonment, and upon conviction of a subsequent offense by a fine not less than five hundred dollars and not more than one thousand dollars, or by imprisonment for not less than three months and not exceeding one year, or by both such fine and imprisonment. Any violation of this section by a person theretofore convicted under the then existing laws of this state of practicing dentistry without license or registration, shall be included in the term "a subsequent offense." Every conviction of unlawful practice subsequent to a first conviction thereof shall be a conviction of a second offense. Every practitioner of dentistry must display conspicuously upon the house or in the dental office wherein he practices, his full name. If there are more dental chairs than one in any dental office the name of the practitioner practicing at each chair must be dis-

Names of
practi-
tioners to
be dis-
played.

² Formerly "twenty."

³ Previously amended by L. 1911, ch. 786.

⁴ Word "registered" new.

⁵ Words "of this state" omitted.

⁶ Remainder of sentence formerly read: ", and upon conviction of a subsequent offense by a fine not less than one hundred dollars, or by imprisonment for not less than two months, or by both such fine and imprisonment."

played conspicuously on or by said chair in plain sight of the patient. Any person who shall practice dentistry personally or by hiring or procuring another to practice and shall fail so to display or cause to be displayed the name, license and registration certificate of himself and any person practicing or employed to practice as a dentist or dental hygienist in his dental office or any dental office under his control, shall be guilty of a misdemeanor and punishable upon a first conviction by a fine of not less than fifty dollars or more than five hundred dollars or by imprisonment for not more than one year, and upon every subsequent conviction by a fine of not less than one hundred dollars, or by imprisonment for not less than sixty days, or by both fine and imprisonment. Any person who shall employ, hire, procure, or induce one who is not duly licensed and registered as a dentist to practice dentistry, or shall aid or abet one not so licensed and registered in such practice shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars or more than five hundred dollars, or by imprisonment for not more than a year, or by both such fine and imprisonment; providing that a person practiced upon by an unlicensed or unregistered dentist shall not be deemed an accomplice, employer, hirer, procurer, inducer, aider, or abettor within the meaning of this section.

Employment of unlicensed person.

§ 5. Paragraph four of subdivision B of section two hundred and three of such chapter, as amended by chapter one hundred and twenty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 203, subd. B, ¶ 4, as amended by L. 1916, ch. 129, amended.

4. Shall practice dentistry under a false or assumed name or under the license of registration of another person of the same name or under the name of a corporation, company, association, parlor or trade name; provided that legally incorporated dental corporations existing and in operation prior to January first, nineteen hundred and sixteen, may continue so operating through licensed and registered dentists' while conforming to the provisions of this act. Their advertising shall be subject to the rules of the regents, and any of such corporations which shall cease to exist or operate for any reasons whatsoever shall not be permitted to resume operations, and any such corporation which shall be convicted of a violation of this act or be compelled to pay a penalty for a violation of this act shall forfeit its privileges and rights under this subdivision.

False names, corporations, etc.

§ 6. This act shall take effect immediately.

¹ Words "through licensed and registered dentists" new.

² Words "shall be" new.

³ Remainder of subd. 4 formerly read: "and employees of said corporations shall be licensed and registered dentists, and corporations that cease to exist or operate for any reason whatsoever shall not be permitted to resume operation; or."

CHAPTER 179

AN ACT to amend the public health law, in relation to the practice of veterinary medicine.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 49,
§ 216, as
amended by
L. 1917,
ch. 648,
amended.

Section 1. Section two hundred and sixteen of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as last amended by chapter six hundred and forty-eight of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 216. **Admission to examination.** The regents shall admit to examination any candidate who pays a fee of ten dollars and submits satisfactory evidence, verified by oath if required, that he (first) is more than twenty-one years of age; (second) is of good, moral character; (third) has the general education required in all cases after July first, eighteen hundred and ninety-seven, preliminary to receiving a degree in veterinary medicine; (fourth) has studied veterinary medicine not less than four¹ full years, including four¹ satisfactory courses in four¹ different academic years, in a veterinary medical school registered as maintaining at the time a satisfactory standard; (fifth) has received a degree as veterinarian from some registered veterinary medical school. ² The degree in veterinary medicine shall not be conferred in this state before the candidate has filed with the institution conferring it, the certificate of the regents that before beginning the first annual veterinary course counted toward the degree he had earned a veterinary medical student qualifying certificate in accordance with the rules of the regents, the minimum requirement for which, for matriculates after January one, nineteen hundred and five, shall be the successful completion of an approved four-year high school course or its equivalent. The regents may, in their discretion, accept as the equivalent for any part of the third and fourth requirement, evidence of five or more years' reputable practice in veterinary medicine, provided that such substitution be specified in the license. The regents may also, in their discretion, admit to the examination graduates of duly incorporated veterinary schools, who matriculated in such schools prior to nineteen hundred and ten, provided such graduates are now and have been for at least five years, residents of this state.

§ 2. This act shall take effect immediately.

¹ Formerly "three."

² Following sentence materially amended.

CHAPTER 180

AN ACT to amend the public officers law, in relation to qualifications for holding office.

Became a law March 22, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter fifty-one of the laws of ^{L. 1909,} nineteen hundred and nine, entitled "An act in relation to public ^{ch. 51,} officers, constituting chapter forty-seven of the consolidated ^{§ 3,} laws," is hereby amended to read as follows: ^{amended.}

§ 3. **Qualifications for holding office.** No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, ¹ or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred and seventeen, or the acts amendatory and supplemental thereto.

§ 2. This act shall take effect immediately.

CHAPTER 181

AN ACT to amend chapter three hundred and twenty-three of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the General Electric Company," in relation to the issue of stock.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter three hundred and twenty-three of the laws of eighteen hundred and ninety-two, entitled ^{L. 1892,} "An act to incorporate the General Electric Company," is hereby ^{ch. 323,} amended to read as follows: ^{§ 3,} ^{amended.}

§ 3. The capital stock with which said company shall commence business shall be one hundred thousand dollars divided into one thousand shares, each of one hundred dollars. The said capital stock may be increased from time to time by the vote of the holders of two-thirds of the then existing capital stock, in person or by proxy, at a meeting of the stockholders duly called for that purpose, to such an amount as may be determined necessary for the company's business; any such meeting to be ^{Capital stock.}

¹ Remainder of section new.

Preferred
stock;
voting
privileges.

Issue of
stock.

Liability of
stock-
holders.

held upon a notice given to the several stockholders not less than ten days before the day of the meeting, by delivering the same personally or mailing the same, postage prepaid, to the respective stockholders at their last known residence or place of business, provided a certificate of such increase, signed and sworn to by a majority of the directors, and the president and secretary of said corporation shall be filed in the office of the secretary of state, and a duplicate thereof in the office of the clerk of the city and county of New York. ¹ Said corporation, notwithstanding any other provision of law, may issue one or more classes of preferred stock, having a par value of not less than ten dollars and not more than one hundred dollars * per share which preferred stock shall not entitle any holder thereof to vote at any meeting of stockholders or election of the company or to otherwise participate in any action taken by the corporation or stockholders except as expressly authorized at its issue by the corporation; and if so authorized, such vote shall be on the basis of one vote for each one hundred dollars of par value of preferred stock. Each share of common stock ² shall entitle the holder thereof to one vote at all meetings of stockholders and at all elections of the company. The capital stock of said corporation may be issued or caused to be issued by its directors, for money, labor done, or property actually received for the use and lawful purposes of such corporation, at its fair value, subject to such restrictions as may be provided in the by-laws of said company. The holders of any stock so issued shall not be subject to any liability upon the same, or by reason of being such stockholders; except that such stockholders shall jointly and severally also be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing within thirty days after the termination of such services that he intends to hold him liable, and shall commence action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for such services. No person holding stock in said corporation as collateral security or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock shall be personally subject to liability as stockholder, and no stockholder of said corporation shall be liable for any such debt due to a laborer, servant or employee, if he shall neglect to bring suit against the corporation for such debt within three months after the termination of such services.

§ 2. This act shall take effect immediately.

* So in original. [Word misspelled.]

¹ Following sentence materially amended.

² Sentence to here formerly read: "Each share of stock whether preferred or common."

CHAPTER 182

AN ACT authorizing the transit commission to extend for a period of one year the operation of the street railway line of the Nassau Electric Railroad Company, in the borough of Brooklyn, commonly known as the Park avenue line, without exchanging transfers with connecting lines, notwithstanding the provisions of any charter, franchise, agreement or statute.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The transit commission, on its own motion or on application made, may, if in its opinion the public interest will be served thereby, make an order suspending and waiving the provisions of any charter or franchise or agreement whereby the Nassau Electric Railroad Company, in operating the street railway line commonly known as the Park avenue line, is obliged to issue, receive or exchange transfers to and from connecting lines and permitting during such period whoever is operating said railroad along said line to operate without issuing, receiving or exchanging such transfers, notwithstanding the provisions of any special or general law. Such order shall remain in effect for such period as the transit commission may prescribe, not exceeding one year.

§ 2. This act shall take effect immediately.

CHAPTER 183

AN ACT to amend the public health law, relative to the practice of pharmacy.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and thirty-three of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as last amended by chapter three hundred and ninety-four of the laws of nineteen hundred and eighteen¹ is hereby amended to read as follows:

§ 233. **Licenses; certificates; examinations; rules.** Satisfactory evidence verified by oath shall be required by the regents of all candidates for admission to the examinations.

Pharmacist. They shall admit to the examination for pharmacist any candidate that pays a fee of ten dollars and

1. Is more than twenty-one years of age.
2. Is of good moral character.

¹ Previously amended by L. 1910, ch. 422; L. 1915, ch. 502; L. 1916, ch. 327.

3.^{*} Had prior to the beginning of the first year of pharmaceutical study the general education required by the rules of the regents preliminary to receiving the degree of graduate in pharmacy, which education after January first, nineteen hundred and twenty-three, shall not be less than three years of academic work or its equivalent.

4. Has studied pharmacology as outlined in the syllabus not less than two years in a school.

5. Has either received the diploma of graduate in pharmacy or equivalent degree from a school, or a license conferring the full right to practice pharmacology in some foreign country registered as meeting the minimum requirements of this article. The diploma of graduate in pharmacy or equivalent degree shall not be conferred on any one that did not file with the school at matriculation the pharmacy student certificate required above.

6. Has had four years' experience in a registered pharmacy or drug store, under the personal supervision of a pharmacist or druggist, one year of which experience within five years of the date of application must have been in a pharmacy or drug store of the United States.

Junior pharmacist. They shall admit to the examination for junior pharmacist any candidate that pays a fee of ten dollars and

1. Is more than nineteen years of age.

2. Is of good moral character.

3.^{*} Had prior to the beginning of the first year of pharmaceutical study the general education required by the rules of the regents preliminary to receiving the degree of graduate in pharmacy, which education after January first, nineteen hundred and twenty-three, shall not be less than three years of academic work or its equivalent.

4. Has studied pharmacology as outlined in the syllabus not less than two years in a school.

5. Has received the diploma of graduate in pharmacy from a school.

6. Has had two years' experience in a registered pharmacy or drug store under the personal supervision of a pharmacist or druggist, all of which experience must have been in a pharmacy or drug store in New York state.

Druggist. They shall admit to the examination for druggist any candidate that pays a fee of five dollars and

1. Is more than eighteen years of age.

2. Is of good moral character.

3. Has the preliminary and professional education required by the rules.

4. Has had three years' experience in a registered pharmacy or drug store under the personal supervision of a pharmacist or druggist, one year of which experience within five years of the date of application must have been in a pharmacy or drug store of the United States.

^{*} Subd. 3 materially amended.

Examinations. The board shall submit to the regents as required suitable questions for thorough examination in pharmacology, both written and practical, as outlined in the syllabus.

From these questions the secretary shall prepare question papers in accordance with the rules which at any examination shall be the same for all candidates. Examinations for license shall be given in at least three convenient places in the state and at least four times annually in accordance with the rules. The practical examinations shall be conducted by the examiners, the written by the regents. On receiving from the board an official report that an applicant has successfully passed the examinations and is recommended for license, the regents shall issue to him a license to practice according to the qualifications of the applicant. Every license shall be issued by the regents under seal and shall be signed by the commissioner, each examiner and by the secretary. Every certificate shall be issued by the board subject to rule and shall be signed by the secretary. Applicants examined and licensed by other state examining boards registered by the regents as maintaining standards not lower than those provided by this article may without further examination, on payment of twenty-five dollars to the regents and on submitting such evidence as they may require receive from them an endorsement of their licenses or diplomas conferring all rights and privileges of a regents' license after examination.

Before any license or certificate is issued it shall be numbered and properly recorded, and its number shall be noted in the license or certificate. The regents on the recommendation of the board may revoke a license or annul a certificate, for cause.

The questions for examination for licensed pharmacist and junior licensed pharmacist shall be identical. An applicant for examination for junior licensed pharmacist shall be eligible to take the examinations in theoretical subjects only. Such applicants may, subject to the rules of the board, upon completing four years' actual experience in a pharmacy or drug store, provided such applicant is over twenty-one years of age, be admitted to the examination in practical pharmacy, and if successful, the board shall grant such applicant a pharmacist's license.

Rules. The rules of the board and of the regents affecting examination, registration and administration continue in force until revised by the board and approved by the regents.

The board shall make rules subject to the approval of the regents:

1. For the certification and registration of apprentices and storekeepers.
2. For the surrendering of licenses, issued prior to January first, nineteen hundred and one.
3. For the acceptance of licenses from other licensing boards issued prior to January, nineteen hundred and five, in lieu of a diploma.
4. For the accomplishment of the trusts reposed in them by this article and by any other law of the state.

All licenses and certificates of examination, issued to licensees by former boards of pharmacy, shall be in full force and effect in perpetuity for the section of the state for which they were issued, and all certificates of registration issued during nineteen hundred and ten shall be valid until January first, nineteen hundred and eleven.

§ 2. This act shall take effect immediately.

CHAPTER 184

AN ACT making an additional appropriation for the construction of a tunnel or tunnels jointly with the state of New Jersey, for vehicular and pedestrian traffic under the Hudson river and between the states of New York and New Jersey.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. In addition to moneys heretofore appropriated, the sum of five million five hundred thousand dollars (\$5,500,000), or so much thereof as may be needed, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to carry out the purposes of chapter one hundred and seventy-eight of the laws of nineteen hundred and nineteen, entitled "An act to provide for the acquisition of lands and the construction of a tunnel or tunnels jointly with the state of New Jersey, for vehicular and pedestrian traffic under the Hudson river and between the states of New York and New Jersey, and making an appropriation therefor," including the expenses of the commission constituted by such act, known as the New York state bridge and tunnel commission, and toward the payment of the cost of the tunnel or tunnels to be constructed pursuant to the provisions of such act, or the share thereof of the state of New York. Such sum shall be expended under the direction of such commission and shall be payable by the treasurer on the warrant of the comptroller on itemized vouchers certified to by the chairman of the commission.

§ 2. This act shall take effect immediately.

CHAPTER 185

AN ACT in relation to providing relief for the needy blind.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- Section 1. Application for relief.
2. Partial blindness defined.
3. When person deemed without means of support.

4. When person deemed incapable of self-support.
5. Measure of relief.
6. Eligibility for relief.
7. Marriage as affecting relief.
8. Change of residence.
9. Contents of application.
10. Investigation by commission.
11. Report of findings and recommendations to supervisors.
12. Granting of allowances by board of supervisors.
13. Record by commission and boards of supervisors.
14. Penalty.
15. Application to city of New York.
16. Taking effect.

Section 1. Application for relief. Any person interested may at any time apply to the New York state commission for the blind, hereinafter referred to as the commission, in behalf of any wholly or partially blind person who is without means of support and is incapable of self-support, and ask for the relief under this act, provided the person for whom relief is sought is eligible under the provisions of section six hereof.

§ 2. Partial blindness defined. A person shall be deemed to be partially blind under this act when vision is so defective or so impaired that the person so afflicted must depend upon others, or be favored in open competition to such an extent as to limit his or her field of usefulness and lower his or her earning capacity below the point of self-support, unless taught or trained to earn a livelihood in some special occupation for the blind.

§ 3. When person deemed without means of support. A person shall be deemed to be without means of support when a charge upon the public, or when so lacking in resources that he or she, and his or her family, if a family is dependent upon the person in question, may reasonably be expected to become an immediate charge upon the public or upon some one not legally liable for his or her support, unless he or she receives relief to the extent demanded, or some part thereof.

§ 4. When person deemed incapable of self-support. A person shall be deemed incapable of self-support if and whenever the person in question shall be found to be incapable of earning an adequate livelihood and shall be incapable of being taught or trained to earn an adequate livelihood in any of the occupations for the blind that are open to the person in question, or in which it is possible for him or her to be placed through the efforts of the commission.

§ 5. Measure of relief. The measure of relief granted in each case shall be as follows:

(a) When the person for whom relief is sought is in receipt of an income of any kind, in any amount, or has property that can be made to yield funds adequate to constitute a substantial contribution towards the support of the person in question, relief

may be granted under this act for the difference between such income, or funds, as the case may be, and the amount deemed necessary for support of the person or family, if there is a family dependent upon the person for whom relief is asked, but in no case shall the relief granted exceed three hundred dollars per year per person;

(b) When the person for whom relief is demanded is without income, and without property from which any substantial contribution towards support can be derived, and it also appears that by granting relief in an amount not exceeding three hundred dollars per year such person will be enabled to provide himself, or herself, as the case may be, with the necessities of life, including bed and board in a family or private institution approved by the board of supervisors of the county in which resides the person in whose behalf the application is made, then in such cases relief shall be granted according to requirements, not to exceed three hundred dollars annually.

§ 6. **Eligibility for relief.** In order to be eligible for relief under this act, a person must (1) be a citizen of the United States, and must (2) be either (a) a resident of this state for five years, or (b) have lost his sight after having become a resident of this state, and (3) must in any event have been a resident of the county in which he or she lives for at least one year. A person shall not be eligible for relief pursuant to this act who is in attendance as a pupil at a college, university, technical or professional school, and is receiving aid as a blind person pursuant to section nine hundred and seventy-six of the education law.

§ 7. **Marriage as affecting relief.** Relief under this act shall be refused if and whenever a man or woman who is blind or partially blind within the definitions of this act, is married to another who is also blind or partially blind within the definitions of this act, unless such man or woman shall not have been blind or partially blind at the time of their marriage or unless they shall have been married prior to the passage of this act. If relief has already been granted it shall be discontinued if, and whenever, a man or woman who is blind or partially blind within the definitions of this act, is married to another who is also blind or partially blind within the definitions of this act.

§ 8. **Change of residence.** If any person changes his or her residence from one county to another in this state while receiving relief under this act, then the county in which the person takes up his residence may continue the payments, at the same or different amounts, and, if continued, the payments shall, for one year dating from the date of change of residence, be and constitute a charge against the county in which the person in question gave up a residence. The auditor or other fiscal officer of the county making the payments shall certify to the auditor or other proper fiscal officer of the county in which the person in question gave up his residence, the amounts of the payments, and the latter, upon receipt of the certificate, shall draw his warrant upon his county treasurer in favor of the other county for the amount named in the certificate.

§ 9. Contents of application. Every application to the commission for relief under this act shall be accompanied by a petition, duly verified by the oath of the person presenting the application, showing

(a) That the person in whose behalf the application is made is wholly blind or is partially blind within the definition of the latter term found in section two of this act,

(b) Whether or not such person is in receipt of an income of any kind, and, if so, the amount thereof, also the amount deemed necessary for the support of such person and family, if there is a family dependent upon such person,

(c) Whether or not such person has property of any kind or description and if so, a description thereof, its reasonable value, where located and in whose possession and control, and

(d) The names and addresses of at least two disinterested witnesses who have resided for at least one year within the county where resides the person in whose behalf the application is made, and who can testify to the truth of the statements made in the petition.

§ 10. Investigation by commission. On receipt of an application for relief, accompanied by a petition meeting the requirements of section nine of this act, the commission shall promptly investigate and determine whether or not the person in whose behalf the application is made is capable of earning an adequate livelihood or can be taught or trained to earn an adequate livelihood, and shall obtain all necessary facts to enable the supervisors to determine the amount of relief, if any, to which such person is entitled.

§ 11. Report of finding and recommendations to supervisors. The commission shall promptly forward to the board of supervisors of the county where resides the person in whose behalf the application is made the application for relief, the petition accompanying the same, and the findings of the commission with respect to the earning capacity of such person, together with any recommendations that the commission may be prepared to make, concerning the need, education or training of such person in any of the industrial occupations for the blind that are open to the person in question, and any other facts in the possession of the commission having a bearing upon the eligibility of the applicant for relief under this act.

§ 12. Granting of allowances by board of supervisors. The following provisions shall govern the granting of allowances pursuant to this act:

1. It shall be the duty of the board of supervisors of a county annually to appropriate such sum as, in their discretion and judgment, may be needed to carry out the provisions of this act, including expenses for administration of relief, and to include in the tax levy for such county the sum or sums appropriated for that purpose.

2. The board of supervisors of a county shall grant an allowance on such terms and conditions as they may deem advisable,

to any person wholly blind or partially blind within the definitions of this act, who resides in their county, and is otherwise eligible, and who is found by the board to be without means of support and incapable of self-support, as these terms are defined in this act.

3. An allowance made by a board of supervisors shall not be made for a longer continuous period than one year without renewal, but the allowance may be continued from time to time at the same or different amounts for similar or less periods, either successively or intermittently, and may be revoked, when the board of supervisors are satisfied that the applicant is no longer eligible to such relief. A complete record in writing, however, shall be kept of the grounds upon which revocation is made, and such records shall be open to the public.

§ 13. **Record by commission and boards of supervisors.** A full and complete record shall be kept for the commission and by the board of supervisors of a county of each and every application received for relief under this act, and of the disposition made of same.

§ 14. **Penalty.** A person who shall knowingly or wilfully procure or attempt to procure, directly or indirectly, any allowance for relief under this act, for or on account of a person not entitled thereto, or who shall knowingly or wilfully pay or permit to be paid any allowance to a person not entitled thereto, shall be guilty of a misdemeanor.

§ 15. **Application to city of New York.** The city of New York shall be deemed a county for the purposes of this act, and the board of estimate and apportionment and the comptroller of such city shall be deemed the board of supervisors and county auditor, respectively.

§ 16. **Taking effect.** This act shall take effect immediately.

CHAPTER 186

AN ACT to amend the civil practice act, in relation to security for infant or incompetent.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 154
amended.

Section 1. Section one hundred and fifty-four of the civil practice act is hereby amended to read as follows:

§ 154. **Security for infant or incompetent.** Where in the course of an action or proceeding security shall be required for protecting the interests of an infant, lunatic, idiot or habitual drunkard, it shall be in the form of a bond of an approved surety company, or the bond of individuals secured by an approved mortgage on real estate, in an amount double that of the property

involved, ¹ and approved as to form and sureties by the court in which the action or proceeding is pending or by a judge thereof. Upon a breach of the condition of any such bond, the court must direct it to be prosecuted for the benefit of the person injured.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 187

AN ACT to amend the civil practice act, in relation to habeas corpus and certiorari to inquire into cause of detention.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section twelve hundred and thirty-nine of the civil practice act is hereby renumbered subdivision four, and such section is hereby amended by inserting therein a new subdivision three, to read as follows:

§ 1239.
subd. 3
renumbered
subd. 4;
new
subd. 3
added.

3. All writs of habeas corpus directed to the agent and warden of a state prison, or the superintendent, manager or board of managers of a state institution, must be made returnable before a justice of the supreme court or a county judge in the county in which the person is detained. If at the time there is no such official in the county capable of acting, the writ shall be made returnable before the nearest accessible supreme court justice or county judge in an adjoining county.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 188

AN ACT to amend chapter two hundred and sixty-seven of the laws of eighteen hundred and thirty, in relation to The Children's Home of Utica.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter two hundred and sixty-seven of the laws of eighteen hundred and thirty, as revived and continued by chapter fifty-five of the laws of eighteen hundred and fifty-six, and as last amended by chapter three hundred and ninety-one of the laws of nineteen hundred and six,^{1a} constituting the charter of The Children's Home of Utica, formerly the Utica Orphan Asylum, the name having been changed pursuant to an order of the supreme court, made on the second day of February,

L. 1830,
ch. 267,
§ 2, as
continued
by L. 1856,
ch. 55,
and
amended by
L. 1904,
ch. 391,
amended.

¹ Words "including the interest or income during the minority of the infant or during the incompetency as the case may be," omitted.

^{1a} Previously amended by L. 1871, ch. 286.

nineteen hundred and twenty, is hereby amended to read as follows:

§ 2. The sole object of said society shall be the support and education of orphan children; but the trustees of said society may, under such regulations as they shall from time to time adopt, admit children who have one parent or both parents living, to a participation in the benefits of said society. ²The trustees may also support, care for and treat crippled children. The said corporation may, for the purposes of the society, take by gift, grant, devise, bequest or purchase, subject to all provisions of law relative to devises and bequests, and hold real and personal estate to an amount not exceeding five hundred thousand dollars.

§ 2. This act shall take effect immediately.

CHAPTER 189

AN ACT to amend the second class cities law, in relation to notice of amendments to the building code.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and fifty-six of chapter fifty-five of the laws of nineteen hundred and nine, entitled "An act in relation to cities of the second class, constituting chapter fifty-three of the consolidated laws," as added by chapter five hundred and seventy-three of the laws of nineteen hundred and nine, is hereby amended to read as follows:

§ 156. **Duties of superintendent.** In addition to the duties of the superintendent of buildings prescribed herein, or otherwise by law, the common council shall by ordinance prescribe his duties, and he shall have such power and authority in regard to the supervision and inspection of the erection, construction or alteration of buildings and other structures as shall be conferred by ordinance, not inconsistent with the other laws of the state. The common council shall also have power to establish by ordinance, and from time to time amend, a "building code," providing for all matters concerning, affecting or relating to the construction, alteration, repair or removal of buildings and structures heretofore or hereafter erected; but no ordinance amending, repealing or modifying such building code or any provision thereof shall be passed by the common council until notice ¹shall have been published for at least ten days in the official paper or papers of the city that on a day stated in such

² Following sentence new.

¹ Remainder of section formerly read: "of the proposed ordinance shall have been published for at least ten days in the official paper or papers of the city prior to action thereon."

notice, the common council will consider the adoption of a proposed ordinance amending, repealing or modifying the building code, or a part thereof, generally or in respect of a specified subject, and that a copy of such proposed ordinance is on file in the office of the city clerk.

§ 2. This act shall take effect immediately.

CHAPTER 190

AN ACT to amend the code of criminal procedure, in relation to peace officers.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and fifty-four of the code of criminal procedure is hereby amended to read as follows: § 154
amended.

§ 154. **Who are peace officers.** A peace officer is a sheriff of a county, or his under sheriff or deputy, or a county detective appointed pursuant to chapter sixty-two of the laws of eighteen hundred and ninety-seven as amended by chapter five hundred and thirty-two of the laws of nineteen hundred and by chapter five hundred and ninety-eight of the laws of nineteen hundred and eleven, or a constable, marshal, police constable or policeman of a city, town or village, or a county detective employed in the office of the district attorney in any county embraced wholly within the limits of a city, or an attendant or an official of the court of general sessions of the county of New York or an attendant or an official of the supreme court in the first department ¹ or an attendant or other official attached to the county court of Kings county or a detective attached to such county court.

§ 2. This act shall take effect immediately.

CHAPTER 191

AN ACT to amend the farms and markets law, in relation to prevention of disease among bees and the transportation of bees.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and seventy-three and one hundred seventy-four of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," are hereby amended to read as follows: L. 1922,
ch. 48,
§§ 173, 174
amended.

¹ Remainder of section new.

§ 173. **The prevention of disease among bees.** No person shall keep in his apiary any colony of bees affected with a contagious malady known as European or American foul brood; and every beekeeper when he becomes aware of the existence of either of such diseases among his bees, shall immediately notify the commissioner of the existence of such disease. ¹ Persons keeping bees shall keep them in hives of such construction or form of construction that the frames may be easily and readily removed for examination of the brood for the purpose of determining whether disease exists in the brood.

§ 174. **Assessors to report owners of bees; transportation of bees regulated.** Assessors shall file with their annual assessment-roll a list of the names and addresses of all owners of bees within their respective districts. No person shall remove or transport bees or colonies of bees that are suffering with the disease known as European or American foul brood from the place where kept to any point within the state of New York, provided, however, that this shall not prevent the removing of diseased colonies of bees from bees not so diseased to some point of segregation and safety. The removal of diseased bees from the colonies that are not so diseased to some other place for treatment shall only be done under a written permission from the commissioner to so remove for such purpose. No person or corporation shall remove bees which are under quarantine to another locality without obtaining permission in writing from the commissioner so to do. No person or company shall transport or receive for transportation any bees ² from a point within this state to any other point therein unless said bees are accompanied by a certificate signed by an authorized inspector of the department of farms and markets stating that such bees are in good healthy condition. Any transportation company receiving a shipment of bees from without the state unaccompanied by a certificate issued by a duly authorized inspector showing freedom from disease shall notify the commissioner of the receipt of such shipment of bees, the name of the consignor and consignee, place of shipment and point of destination within this state. In case contagious disease is found within the shipment, such shipment shall be returned to the consignor or delivered to a duly authorized representative of the department of farms and markets of this state for treatment or destruction.

§ 2. This act shall take effect June first, nineteen hundred and twenty-three.

In effect
June 1,
1923.

¹ Following sentence new.

² Sentence to here formerly read: "No person or transportation company shall receive any bees for transportation."

CHAPTER 192

AN ACT to amend the state finance law, in relation to satisfaction of United States deposit fund mortgages belonging to the state.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-eight¹ of chapter fifty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to state finance, constituting chapter fifty-six of the consolidated laws," is hereby amended to read as follows: L. 1909,
ch. 68,
§ 88
amended.

§ 88. **Foreclosure of United States deposit fund mortgages.** If the interest due on any such mortgage shall not be paid on the first Tuesday of October of any year, or before the first day of November next following, or the principal or any part thereof shall not be paid when due, the comptroller shall cause all such mortgages upon which default is made in the payment of principal or interest to be foreclosed, whenever, in his judgment, it may be necessary or best for the protection of the interest of the state. All actions of proceedings for that purpose shall be prosecuted or conducted by the attorney-general, in the supreme court or in the county court of the county where the mortgaged premises are located, and in conformity with the practice in such case made and provided. ² Provided, however, that whenever in the judgment of the comptroller it may be necessary or best for the protection of the interests of the state he may accept a deed from the owner or owners of the mortgaged premises in satisfaction thereof.

§ 3.³ This act shall take effect immediately.

CHAPTER 193

AN ACT to amend the general municipal law, in relation to contracts.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-six-b of chapter twenty-nine of the laws of nineteen hundred and nine, entitled "An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws," as added by chapter one hundred and seventy-six of the laws of nineteen hundred and sixteen and last amended by chapter eight hundred and fifty-seven of the laws of L. 1909,
ch. 29,
§ 86b, as
added by
L. 1916,
ch. 176 and
amended by
L. 1920,
ch. 857,
amended.

¹ As renumbered and amended by L. 1911, ch. 634.

² Following sentence new.

³ Should be "§ 2."

nineteen hundred and twenty,¹ is hereby amended to read as follows:

§ 86-b. **Retained percentages may be withdrawn.** Under any contract heretofore or hereafter made or awarded by any municipal corporation, or any public department or official thereof, the contractor may, from time to time, withdraw the whole or any portion of the amount retained from payments to the contractor pursuant to the terms of the contract, upon depositing with the comptroller or disbursing officer of the municipality, corporate stock or bonds of the municipality, or securities of the United States government,² of a market value equal to the amount so withdrawn. The municipality shall, from time to time, collect all interest or income on the stock or bonds so deposited, and shall pay the same, when and as collected, to the contractor who deposited the stock or bonds. If the deposit be in the form of coupon bonds, the coupons as they respectively become due shall be delivered to the contractor. The contractor shall not be entitled to interest or coupons or income on any of the deposited stock or bonds, the proceeds of which shall be used or applied by the municipality, pursuant to the terms of the contract. The provision of this section, as amended, shall supersede the provisions of any general, special or local act inconsistent herewith.

§ 2. This act shall take effect immediately.

CHAPTER 194

AN ACT to amend the judiciary law, in relation to the fees and expenses of stenographers in matters before official referees.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 35,
§ 315, as
amended by
L. 1917,
ch. 714,
amended.

Section 1. Section three hundred and fifteen of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," as last amended by chapter seven hundred and fourteen of the laws of nineteen hundred and seventeen,³ is hereby amended to read as follows:

§ 315. **Fees and expenses of supreme court stenographer for services performed at request of official referees.** The fees of a supreme court stenographer for taking testimony or furnishing one copy thereof, as provided by section one hundred and sixteen of this chapter, when required by an official referee, shall be at the rate⁴ allowed in the supreme court. The stenographer is also

¹ Subsequently amended by L. 1921, ch. 394.

² Words "or securities of the United States government," new.

³ Previously amended by L. 1915, ch. 224.

⁴ Remainder of sentence materially amended.

entitled to payment of his actual and necessary expenses. The amount thereof must be paid upon the certificate of the official referee by the treasurer of the county in which the action or proceeding is pending, from the court fund, or the fund from which jurors are paid.

§ 2. This act shall take effect immediately.

CHAPTER 195

AN ACT to amend the military law, in relation to military courts in the naval militia.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-three of chapter forty-one of the laws of nineteen hundred and nine, entitled "An act in relation to the militia, constituting chapter thirty-six of the consolidated laws," being former section one hundred and fifty-seven of such chapter as thus renumbered by chapter six hundred and forty-four of the laws of nineteen hundred and seventeen, is hereby repealed, and such chapter is hereby amended by inserting therein a new section one hundred and forty-three, to read as follows:

L. 1900,
ch. 41,
§ 143, as
renumbered
by L. 1917,
ch. 644,
repealed;
new § 143
added.

§ 143. **Naval militia.** The provisions of this article shall apply to the naval militia except as otherwise provided in this section. The military courts of the naval militia shall be constituted like, and have cognizance of the same subjects, and possess like powers except as to punishments, as similar courts provided for by the laws and regulations governing the navy of the United States, and the proceedings of courts martial of the naval militia shall follow the forms and modes of procedure prescribed for said similar courts. Summary courts for enlisted men shall be appointed by the commanding officer of each battalion for his command and in case of a division not a part of a battalion by the commanding officer of the naval militia. An officer of the naval militia may be assigned to act as judge-advocate of a general court martial or court of inquiry. General courts martial and courts of inquiry may be wholly or partly composed of officers junior in rank to the officer to be tried or investigated where in the judgment of the officer appointing the court the interest of the service so require. Boards appointed for the naval militia shall be composed of officers of such grade or rank as the officer appointing the board may determine for each occasion.

§ 2. This act shall take effect immediately.

CHAPTER 196

AN ACT to amend the public health law, in relation to powers and duties of the county mosquito extermination commission, the state commissioner of health and the board of supervisors relating to plans and estimates of money and the levy of taxes for the extermination of mosquitoes.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 49,
§§ 411-413,
as added
by L. 1916,
ch. 408,
amended.

Section 1. Sections four hundred and eleven, four hundred and twelve and four hundred and thirteen of article twenty-one of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as added by chapter four hundred and eight of the laws of nineteen hundred and sixteen, are hereby amended to read, respectively, as follows:

§ 411. **Publication of notice of entry, claims, damages and payments.** Before entering upon any such lands for such purposes as outlined under section four hundred and ten hereof, the commission shall publish each year, at least once during the year, immediately following the approval by the board of supervisors¹ of its plans for work during the ensuing year as provided in this article, in at least one newspaper in every town of the county where work is to be performed and in which such a paper is published, a general description of the land with the names of the owners thereof as shown by the last assessment-rolls, if known, if the name of the owner or owners be unknown that fact must be stated and published; and in case of a town where work is to be performed by the commission and in which no newspaper is published, individual notices shall be first sent to every owner in such town upon whose land the commission proposes to enter for said purposes if the name of such owner be known, if unknown such notice shall be posted in not less than five conspicuous places in such town. Any person objecting to or who is aggrieved or who claims damages due to the execution of the work of the commission, shall file a protest with the commission setting forth his grievance or claim. The commission shall thereupon and within thirty days after the filing of such protest or claim, set a day for a public hearing thereof. In all such cases the decision of the commission as to the necessity of such work shall be final. Any damage claimed by any party on account of entry work of the commission upon his property shall be determined by an action in court to be tried in the county; and the amount of any damage that may be awarded such party shall be included in the next succeeding estimate of annual requirements of the commission and shall be included in the annual tax levy as provided for in this article, and be paid by the commission.

¹ Words "board of supervisors" substituted for words "state commissioner of health."

§ 412. **Estimate of annual requirements; power and duty of state health commissioner.** Every such county commission shall, on or before the first day of September in each year, file with the state commissioner of health and with the board of supervisors of such county,² a detailed estimate of the moneys required for the ensuing year and a plan of the work to be done and the methods to be employed, together with a general description of such lands with the names of the owners thereof, as recorded by the last assessment-rolls if known, if unknown that fact shall be stated, as the commission proposes to enter upon and to execute such plans and work.³

§ 413. **Powers and duties of boards of supervisors.** The board of supervisors shall have power to approve, modify or alter such estimates, plans and methods, and ⁴ it shall be the duty of the board of supervisors in every county in which a commission is appointed at its annual or other meeting in the month of December of each year and on receipt of the said report from the county commission,⁵ to cause to be included in the annual tax levy of such county and added to the tax roll for the succeeding year the amount of money included in such estimate of moneys, as approved, modified or altered by it,⁶ for the use and purposes of the mosquito extermination commission, in its said county,⁷ provided, however, that in no one year shall the amount so raised exceed the amount hereinafter specified, to wit: in counties where the assessed valuations are not more than forty million dollars, a sum not greater than one mill on every dollar of assessed valuation; in counties where the assessed valuations are in excess of forty million dollars, a sum not greater than three-eighths of one mill on every dollar of assessed valuations.

§ 2. This act shall take effect immediately.

² Words "and with the board of supervisors of such county," new.

³ Sentence omitted which read: "Such commissioner shall have the power to approve, modify or alter such estimates, plans and methods and such estimates, plans and methods finally approved by him shall be forwarded by him to the board of supervisors in the county or or before the first day of October following its receipt."

⁴ Words "Powers and" new.

⁵ Sentence to here new.

⁶ Words "county commission" substituted for words "commissioner of the state board of health."

⁷ Words "the amount of money included in such estimate of moneys, as approved, modified or altered by it," substituted for words "such amount of money."

⁸ Words "as is approved by the state commission of health in such report," omitted.

CHAPTER 197

AN ACT to amend chapter two hundred and forty-nine of the laws of nineteen hundred and twenty-one, entitled "An act to provide for a department of public health in and for second and third class cities," in relation to the manner of removal from office of the head of such a department.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1921,
ch. 249,
§ 1
amended.

Section 1. Section one of chapter two hundred and forty-nine of the laws of nineteen hundred and twenty-one, entitled "An act to provide for a department of public health in and for second and third class cities," is hereby amended to read as follows:

§ 1. **Department of public health established.** The common council or similar legislative body of each second and third class city which has not by special law established a department of health, is hereby authorized and empowered by ordinance to abolish its board of health and in its place to create, establish and maintain a department of public health. The commissioner of health in second class cities and the health officer in third class cities shall be the head of such department. He shall be appointed in second class cities by the mayor and in third class cities by the same official or body who or which by charter is authorized to appoint the heads of city departments. He shall serve for a term of four years ¹ and shall not be removed by the official or body appointing him during the term for which he shall have been appointed other than for inefficiency, neglect of duty or misconduct in office, upon written charges, after an opportunity of being publicly heard in his defense. ²A copy of such charges shall be personally served upon such a commissioner of health in cities of the second class or health officer in cities of the third class and he shall be given not less than five days' notice of the time and place of the hearing. The salary of the commissioner of health, deputy commissioner of health, health officer and all subordinates shall be fixed in second class cities by the board of estimate and apportionment and in third class cities by the board or body authorized by charter to fix salaries. No person shall be eligible to appointment as commissioner of health or health officer unless he shall be a physician and surgeon duly licensed to practice under the laws of this state and who has practiced as such or has been engaged in public health work for at least five years, and who shall comply with the qualifications therefor prescribed by the public health council provided for in the public health law, provided, however, that a physician who has received the degree of doctor of public health in a course in any institution of learning recognized by the University of the State of New York shall

¹ Remainder of sentence formerly read: "unless sooner removed by the official or body appointing him."

² Following sentence new.

be eligible for appointment as health officer. The commissioner of health may appoint and at pleasure remove a deputy commissioner of health who shall be a registered physician and surgeon duly licensed to practice under the laws of this state and who has practiced as such or has been engaged in public health work for at least three years. The commissioner of health or health officer shall appoint such subordinates as shall be prescribed by the board of estimate and apportionment in second class cities and by the body in third class cities which is by charter authorized to designate the number of employees. Before entering upon the discharge of the duties of their respective offices the commissioner, deputy commissioner of health and health officer shall each execute and file with the city clerk such official undertakings as the common council or similar legislative body shall prescribe.

§ 2. This act shall take effect immediately.

CHAPTER 198

AN ACT to amend the penal law, in relation to licenses to have, possess or carry a pistol or revolver.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision ten of section eighteen hundred and ninety-seven¹ of the penal law is hereby amended to read as follows:

10. ²The expense of providing a judge, justice or officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, or the city of New York in the case of the police commissioner of such city. ³Such judge, justice or officer shall collect a fee of fifty cents for each license issued and shall pay the same into the treasury of the county or of such city, as the case may be. ⁴The application for any such license, if the license be granted, shall be filed by such judge, justice or officer in the office of the county clerk of the county where the applicant resides, within ten days after the issuance of the license. Any such ⁵license ⁶may be limited as to the date of expiration thereof and may be vacated and canceled at any time by the police commissioner or elsewhere than in the city of New York, by any judge or justice of a court of record.

§ 2. This act shall take effect immediately.

¹As amended by L. 1911, ch. 195; L. 1913, ch. 608; L. 1915, ch. 390; L. 1917, ch. 580; L. 1919, ch. 413; L. 1921, ch. 297.

²Following sentence new.

³Word "such" new.

⁴Words "issued in pursuance of the provisions of this section," omitted.

L. 1900,
ch. 58,
§ 1897,
subd. 10
amended

CHAPTER 199

AN ACT authorizing the board of supervisors of Onondaga county to convey to A. J. Allen a parcel of land in the town of Skaneateles, heretofore acquired for county road purposes, and not needed therefor.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of Onondaga county, by resolution, may determine to convey to A. J. Allen, upon such terms and conditions as the board may deem just and equitable, a parcel of land in the town of Skaneateles containing about one hundred and sixty-eight one-thousandths of an acre, being a part of a larger tract heretofore acquired by the county from Edna Allen for country road purposes, if the board deem that such parcel is not needed for the purposes for which the same was acquired. If such resolution be adopted the board of supervisors in behalf of the county of Onondaga may cause such conveyance to be executed as will vest in the said A. J. Allen all the right, title and interest of the county of Onondaga in and to such parcel.

§ 2. This act shall take effect immediately.

CHAPTER 200

AN ACT to amend chapter five hundred and fifty-nine of the laws of nineteen hundred and two, entitled "An act in relation to the enforcement and collection of taxes in the county of Oneida," in relation to the designation of newspapers for the publication of lists and notices.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1902,
ch. 559,
§ 6, as
amended by
L. 1918,
ch. 474,
amended.

Section 1. Section six of chapter five hundred and fifty-nine of the laws of nineteen hundred and two, entitled "An act in relation to the enforcement and collection of taxes in the county of Oneida," as amended by chapter four hundred and seventy-four of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

Sale of
land for
taxes; pub-
lication of
notice.

§ 6. The county treasurer shall, immediately after the expiration of such six months cause to be published once each week for six weeks, in the newspapers designated by the board of supervisors for the publication of concurrent resolutions of the legislature required by law to be published,¹ a list or statement of the real estate charged with such taxes, interest, expenses and

¹ Words "concurrent resolutions of the legislature required by law to be published," substituted for words "the session laws."

other charges and so liable to be sold, and also a notice that such real estate will, on a day subsequent to the expiration of the said six weeks, specified in such notice, and the succeeding days, be sold at public auction at any court house in the county of Oneida, to discharge the taxes, interest, charges and expenses that may be due thereon at the time of such sale, the publishing of the said notice not to exceed the sum of two dollars for each parcel in such notice so published for each newspaper publishing the same. Proof of the due publication of such list and notice in each newspaper shall within twenty days after the last publication thereof be made and filed in the office of the county clerk of said county, who shall cause the same to be properly indexed. No error or imperfection in any list made up or published shall render any sale void or in any manner affect its validity. On the day of sale specified in the said notice the county treasurer shall commence the sale of such real estate, and he shall continue the sale from day to day until so much of each parcel shall be sold as will be sufficient to pay all the taxes thereon for the years for the taxes of which such sale shall be made, with the interest and charges. The county treasurer may, in his discretion, decline to receive any bid on any parcel of land, if in his opinion, it is made by or for any person not acting in good faith, and any such land shall be sold at such sale the same as if such bid had not been made thereon. In case no purchaser bids the amount due on any lot or parcel, the county treasurer shall bid in such lot or parcel for the county, and it shall be his duty to bid in for the county all lands which have been bid in for the county at any prior tax sale and which have not been duly redeemed or the certificates of sale for which have not been sold or assigned. The treasurer shall make certificates of sale for all lands so bid in by him, describing the lands purchased and specifying the time when a deed therefor can be obtained. Such purchases shall be subject to the same right of redemption as purchases by individuals; and if the land so sold shall not be redeemed the county treasurer's deed therefor shall have the same effect and become absolute in the same time, and on the performance of like conditions, as in the case of sales and conveyances to individuals. The treasurer may sell and assign any certificate of sale of lands bid in for the county at any time before the expiration of the period of redemption on such terms as to him shall seem for the best interest of the county. If any such tax sale certificate shall not have been sold or assigned prior to the expiration of the period of redemption the treasurer shall issue to the board of supervisors of the county a deed or deeds for all of the lands described therein remaining unredeemed. The title thus acquired by said board shall be held by it in trust for said county of Oneida and may be disposed of by it at such times, in such manner, and on such terms as shall be determined by a majority thereof at any regular or special session thereof. After the said board of supervisors have acquired the title in fee to any lands sold for taxes in said county, such lands shall be exempt while so owned by said county from all

Conduct
of sale.

taxes; and the county treasurer of said county is hereby directed to prepare and present to the said board of supervisors, on the first day of its annual session in each and every year, a statement designating such lands, and the said board of supervisors are hereby authorized and directed to strike such lands from the tax roll of the city or towns in which the same are situated. No tax or tax sales shall be invalid because of the failure of the collector of any tax district to verify his return to the assessment roll; the certificate of the county treasurer affixed to any assessment roll filed in his office, by the tax collector of any tax district that any tax thereon remains unpaid, shall be presumptive evidence of that fact.

§ 2. This act shall take effect immediately.

CHAPTER 201

AN ACT to amend the religious corporations law, in relation to the incorporation of congregational and independent churches.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 52,
§ 161
amended.

Section 1. Section one hundred and sixty-one of chapter fifty-three of the laws of nineteen hundred and nine, entitled "An act in relation to religious corporations, constituting chapter fifty-one of the consolidated laws," is hereby amended to read as follows:

§ 161. **The meeting for incorporation.** At the meeting for incorporation, held in pursuance of such notice, the qualified voters, until otherwise decided as hereinafter provided, shall be all persons of full age who have statedly worshiped with such church and have regularly contributed to its support, according to its usages, for at least one year or since it was formed. At such meeting the presence of a majority of such qualified voters, in person, or by proxy duly authorized in writing,¹ at least six in number, shall be necessary to constitute a quorum, and all matters or questions shall be decided by a majority of the qualified voters voting thereon. The meeting shall be called to order by one of the signers of the call. There shall be elected at such meeting, from the qualified voters then present, a presiding officer, a clerk to keep the record of the proceedings of the meeting and two inspectors of election to receive the ballots cast. The presiding officer and the inspectors shall decide the result of the ballots cast on any matter, and shall be the judges of the qualifications of the voters. If the meeting shall decide that such unincorporated church shall become incorporated, the meeting shall also decide upon the name of the proposed corporation, the number of the trustees thereof, which shall be three, six or nine, and

¹ Words "in person, or by proxy duly authorized in writing," new.

the date, not more than fifteen months thereafter, on which the first annual election of the trustees thereof shall be held; and it may, by a two-thirds vote, decide that all members of the unincorporated church, of full age, in good and regular standing who have statedly worshiped with such church but who have not contributed to the financial support thereof, shall also be qualified voters at such meeting, and that such church members, who, for one year next preceding any subsequent corporate meeting, shall have statedly worshiped with such church and have been members thereof in good and regular standing, but have not regularly contributed to the financial support thereof, shall be qualified voters at such corporate meetings. Such meetings shall thereupon elect by ballot from the persons qualified to vote thereat one-third of the number of trustees so decided on, who shall hold office until the first annual election of trustees thereafter, one-third of such number of trustees who shall hold office until the second annual election of trustees thereafter, and one-third of such number of trustees who shall hold office until the third annual election of trustees thereafter, or until the respective successors of such trustees shall be elected. Such meeting shall also elect by ballot a clerk of the corporation, who shall hold his office until the close of the next annual meeting.

§ 2. This act shall take effect immediately.

CHAPTER 202

AN ACT to amend the real property law, in relation to acknowledgments and proofs in other states of deeds, mortgages or other instruments relating to real property within this state; in relation to the certificates of authentication of acknowledgments and proofs of deeds, mortgages or other instruments, relating to real property; and relating to the contents of the certificate of authentication of such acknowledgments and proofs.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions five and six of section two hundred and ninety-nine of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," are hereby amended to read as follows:

5. Any person authorized by the laws¹ of the state or territory in which the acknowledgment or proof² is taken³ to take the acknowledgment or proof of deeds to be recorded therein.

6. Any person authorized by the laws¹ of the⁴ United States to

¹ Words "person authorized by the laws" substituted for word "officer."

² Words "or proof" new.

³ Words "authorized by the laws thereof" omitted.

⁴ Words "District of Columbia authorized by the laws of the," omitted.

L. 1909,
ch. 52,
§ 299,
subds. 5, 6
amended.

take the acknowledgment or proof of deeds in the District of Columbia⁵ to be recorded in said district.

§ 311, subd. 3, as amended by L. 1913, ch. 209, amended.

§ 2. Subdivision three of section three hundred and eleven of such chapter, as amended by chapter two hundred and nine of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

3. Where made by any person authorized by the laws⁶ of a state of the United States, or of any province or territory of the Dominion of Canada⁷ to take the acknowledgment or proof of deeds to be recorded therein, by the secretary of state of the state, the provincial secretary, deputy provincial secretary or assistant provincial secretary of the province, or commissioner of the territory of the Dominion of Canada, or by the clerk, register, recorder or prothonotary of a county, city or parish in which the certificate purports to be made, or by the clerk of any court in or of such state or dominion, county, city or parish having by law a seal. The word county shall be deemed to apply to and include the District of Columbia for the purpose of this section. All certificates authenticating such acknowledgments or proofs of deeds, mortgages or other instruments relating to real property heretofore made by any of the officers above referred to are confirmed, saving, however, the rights of purchasers in good faith and for a valuable consideration whose conveyance shall have been duly recorded before this act shall take effect; this act shall not affect any action or legal proceeding now pending.

§ 312 amended.

§ 3. Section three hundred and twelve of such chapter is hereby amended to read as follows:

§ 312. Contents of certificate of authentication. An officer authenticating a certificate of acknowledgment or proof must subjoin or attach to the original certificate a certificate under his hand, and if he has, pursuant to law, an official seal, under such seal. Except when the original certificate is made by a judge of a court of record in Canada, such certificate of authentication must specify that, at the time of taking the acknowledgment or proof, the person⁷ taking it was duly authorized to take the same; that the authenticating officer is acquainted with the former's handwriting, or has compared the signature to the original certificate with that deposited in his office by such person⁷; and that he verily believes the signature to the original certificate is genuine; and if the original certificate is required to be under seal, he must also certify that he has compared the impression of the seal affixed thereto with the impression of the seal of the person⁷ who took the acknowledgment or proof deposited in his office, and that he verily believes the impression of the seal upon the original certificate is genuine,⁸ or, in case such impression of such seal is not required by law to be filed in his office, he must

⁵ Words "authorized by the laws thereof" omitted.

⁶ Words "in the District of Columbia" new.

⁷ Words "any person authorized by the laws," substituted for words "the officer."

⁸ Word "person" substituted for word "officer."

⁹ Remainder of sentence new.

certify to that effect. A clerk's certificate authenticating a certificate of acknowledgment or proof, taken before a judge of a court of record in Canada, must specify that there is such a court; that the judge before whom the acknowledgment or¹ proof was taken, was, when it was taken, a judge thereof; that such court has a seal; that the officer authenticating is clerk thereof; that he is well acquainted with the handwriting of such judge, and verily believes his signature is genuine.

§ 4. This act shall take effect immediately.

CHAPTER 203

AN ACT to amend the surrogate's court act, in relation to the payment of a claim for administration expenses.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and seventeen of the surrogate's court act is hereby amended to read as follows: § 217
amended.

§ 217. **Proceeding to compel payment of debt, administration expense,¹ legacy or distributive share, or delivery of property.** Where the executor or administrator has not begun the publication of the notice to creditors to present their claims, and three months have elapsed since the probate of the will or grant of letters of administration, or where such a² publication has been completed, any creditor of the deceased having a claim, which has not been rejected, or any person entitled to a specific bequest, or to a legacy or other pecuniary provision under a will, or to a distributive share of an estate, or any person having a claim for an administration expense,³ may present to the surrogate's court a petition setting forth the facts and praying that the executor or administrator be cited to show cause why he should not pay said claim or pay or satisfy such bequest, legacy or distributive share.

Upon the return of such citation the executor or administrator may reject such claim, or show good and sufficient cause why he should not pay such claim, or pay or satisfy such bequest, legacy or distributive share in whole or in part.

The surrogate may dismiss such petition, or direct immediate payment or satisfaction thereof in whole or in part, or upon receiving a bond as provided in section two hundred and eighteen of this act.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two. In effect
Sept. 1,
1922.

¹ Word "or" substituted for word "of."

² Words "administration expense" new.

³ Word "a" new.

⁴ Words "or any person having a claim for an administration expense," new.

CHAPTER 204

AN ACT to amend chapter three hundred and twenty-three of the laws of eighteen hundred and ninety, entitled "An act to make the office of county clerk of Steuben county a salaried office, and regulating the management of said office," in relation to fees for searches on real property.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1890,
ch. 323,
§ 3
amended.

Section 1. Section three of chapter three hundred and twenty-three of the laws of eighteen hundred and ninety, entitled "An act to make the office of county clerk of Steuben county a salaried office, and regulating the management of said office," is hereby amended to read as follows:

Fees to
belong to
county.

Collection
of fees.

§ 3. All the fees, emoluments and perquisites which such clerk shall charge or receive, or which he shall legally be authorized, required or entitled by law to charge or to receive, shall belong to the county of Steuben. It shall be his duty to exact, collect and receive the full amount allowed by law of all such fees, emoluments and perquisites for said county, except for searching and certifying the title to, and incumbrances upon real property, for which he shall charge for each year for which the search is made, for each name, and each kind of conveyance or lien, not to exceed five cents,¹ and such clerk shall require payment in advance for recording all papers left with him for record, and shall also, in each case, require payment for all other services rendered by him or his assistants in his or their official capacity by virtue of any law of this state or by order of the board of supervisors of said county or any duty that may hereafter by law be devolved upon him.

§ 2. This act shall take effect immediately.

CHAPTER 205

AN ACT to amend chapter four hundred and ninety of the laws of eighteen hundred and sixty-seven, entitled "An act to incorporate the village of Spencerport, in the county of Monroe," in relation to boundaries.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1867,
ch. 490,
§ 1, as
amended by
L. 1884,
ch. 59,
amended.

Section 1. Section one of chapter four hundred and ninety of the laws of eighteen hundred and sixty-seven, entitled "An act to incorporate the village of Spencerport, in the county of Monroe," as last amended by chapter fifty-nine of the laws of eighteen hundred and eighty-four² is hereby amended to read as follows:³

¹ Words "not to exceed five cents" substituted for words "two cents."

² Previously amended by L. 1881, ch. 198.

³ Section materially amended.

§ 1. The following territory bounded and described as follows: village boundaries.
Beginning at the intersection of the line between town lots thirty and thirty-one and the center line of the Big Ridge road, running thence easterly along the center line of the Big Ridge road to a point three hundred and fifty feet west of the land formerly owned by Seymour H. Curtis; running thence northerly on a line parallel to and three hundred and fifty feet west from the boundary line of the said Seymour H. Curtis property, to its intersection with the line between town lots numbers seven and nineteen; running thence easterly along said town lot line between town lots seven, eight, nineteen and twenty, to its intersection with the town lot line between town lots twenty and twenty-one; running thence southerly along town lot lines between town lots twenty, twenty-one, thirty-two and thirty-three to its intersection with the town lot line between town lots thirty-three and forty-five; running thence easterly along said town lot line between town lots thirty-three and forty-five to a point where the east line of the property now owned by William H. Hughes and Ona A. Hughes produced northerly would intersect the town lot line between town lots thirty-three and forty-five; running thence southerly along said produced line and the east line of said Hughes property and said line produced southerly to its intersection with the town lot line between town lots forty-five and fifty-eight; running thence westerly along the town lot lines between town lots forty-five and fifty-eight, to its intersection with the town lot lines between town lots fifty-seven and fifty-eight; running thence southerly along said town lot lines between town lots fifty-seven and fifty-eight, to a point two hundred feet north from the center line of Nichols street; running thence westerly along a line parallel with and two hundred feet northerly from the center line of Nichols street, to its intersection with the center line of Union street; running thence southerly along the center line of Union street to its intersection with the town lot line between town lots fifty-six and sixty-nine; running thence westerly along the town lot line between said town lots fifty-six and sixty-nine to its intersection with the town lot lines between town lots fifty-five and fifty-six; running thence northerly along the town lot lines between town lots fifty-five, fifty-six, forty-two, forty-three, thirty and thirty-one, to its intersection with the center line of the Big Ridge road; running thence easterly, along the center line of the Big Ridge road to a point three hundred fifty feet west of the land formerly owned by Seymour H. Curtis, the place of beginning; shall be known and distinguished as the village of Spencerport; and the inhabitants and freeholders residing, or who may hereafter reside, within the limits aforesaid, are hereby constituted a body corporate, by the name of "The Village of Spencerport." And said village of Spencerport may purchase or rent such real estate, and may erect, maintain and keep in repair thereon such buildings as may be necessary or proper for village purposes; and all assessments and taxes heretofore made and levied for such purposes are hereby

ratified and confirmed. All conveyances to or by the said village shall be taken or made in its corporate name, pursuant to a resolution duly adopted at an annual or special meeting.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three.

In effect
Jan. 1,
1923.

CHAPTER 206

AN ACT to amend the village law, in relation to the licensing of occupations.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section ninety-one of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 64,
§ 91,
subd. 1
amended.

1. The running of public carriages, cabs, hacks, carts, drays, express wagons, automobiles¹ or other vehicles for the transportation² of persons or property over or upon the streets of a village for hire,³ soliciting or running therefor, or for hotels, boats, lodging houses or garages;⁴ auctioneering, hawking and peddling except the peddling of meats, fish, fruit and farm produce.

§ 2. This act shall take effect immediately.

CHAPTER 207

AN ACT to amend the village law, in relation to notices of assessments and grievance days to non-residents of the tax district.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and five of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," as last amended by chapter two hundred and thirty-four of the laws of nineteen hundred and twenty-one,^{1a} is hereby amended to read as follows:

L. 1909,
ch. 64,
§ 105, as
amended by
L. 1921,
ch. 234,
amended.

§ 105. **Meeting of assessors to hear complaints.** The assessors shall, in a village of the first or second class, at least one week

¹ Word "automobiles" new.

² Words "within the village, for hire," omitted.

³ Words "over or upon the streets of a village for hire," new.

⁴ Words "boats, lodging houses or garages," new.

^{1a} Previously amended by L. 1909, ch. 472; L. 1918, ch. 461; L. 1919, ch. 93.

before the first Tuesday of the fourth month in the fiscal year, and in a village of the third or fourth class, at least one week before the first Tuesday of the third month in the fiscal year, cause a notice to be published in each newspaper published in the village, and posted in at least five conspicuous public places in the village, that on a day certain not later than the first Tuesday of the fourth or third month of the fiscal year, as the case may be, at a specified place and during four consecutive hours to be named, they will meet for the purpose of completing the assessment-roll, and of hearing and determining complaints in relation thereto, and they may adjourn such meeting from day to day, not later than four days inclusive then next succeeding. ¹ They shall also mail a notice to each person and corporation non-resident of their tax district who has filed with the village clerk on or before the fifteenth day of April preceding a written demand therefor. ² Such notice shall specify each parcel or portion of real property separately assessed to said non-resident person or corporation, the assessed valuation thereof, and the time and place at which the board of assessors will meet for the purpose of hearing complaints in relation thereto. A copy of such assessment-roll shall be deposited with the village clerk at least five days prior to such first Tuesday of the fourth or third month of the fiscal year, as the case may be, and shall be open for inspection by the inhabitants and taxpayers of such village at all times during business hours of such days. Village assessors possess all the powers and are subject to all the duties of town assessors in hearing and determining complaints as to assessments. If the village is one in which the assessment-roll is required to be prepared by copying from the assessment-roll of the town, the assessors at such meeting shall not hear any complaint as to valuation which has not been changed, except upon proof of a change in the property or in the ownership or valuation since the town assessment was completed.

§ 2. This act shall take effect immediately.

CHAPTER 208

AN ACT to amend the village law, in relation to supplying water outside of corporate limits.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and thirty-two of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 64,
§ 232
amended.

¹ Following sentence new.

§ 232. **Supplying water outside of corporate limits.** The board of water commissioners may sell to a corporation, ¹ individual or water district ² outside the village the right to make connections with the mains or reservoirs of such village ³ for the purpose of drawing water therefrom, and fix the prices and conditions therefor.

If the mains are or shall be laid in or through another municipal corporation not having a public system of water-works, the board of water commissioners may itself lay additional pipes for the purpose of distributing water from such mains, and shall have the same rights in the streets or highways of such other municipal corporation as if the principal system were established therein. The board shall not sell nor permit the use of water under this section if thereby the supply for the village or its inhabitants will be insufficient.

§ 2. This act shall take effect immediately.

CHAPTER 209

AN ACT to amend the tax law, in relation to notice of grievance days to non-residents.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 62,
§ 36a, as
added by
L. 1916,
ch. 323, and
amended by
L. 1917,
ch. 489,
amended.

Section 1. Section thirty-six-a of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter three hundred and twenty-three of the laws of nineteen hundred and sixteen, and amended by chapter four hundred and eighty-nine of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 36-a. **Completion of assessment-roll; notice to non-residents.** The assessors shall between the first and fifth day of August mail a notice to each person and corporation non-resident of their tax district, who has filed with the city or town clerk, on or before the fifteenth day of June preceding, a written demand therefor. Such notice shall specify each parcel or portion of real property separately assessed to said non-resident person or corporation, ⁴ the assessed valuation thereof, ⁵ and the time and place at which the board of assessors will meet for the purpose of hearing complaints in relation thereto. Upon application made on or before the third Tuesday of August by any non-resident owner of real

¹ Word "or" omitted.

² Words "or water district" new.

³ Words "or reservoirs of such village" new.

⁴ Word "and" omitted.

⁵ Remainder of sentence new.

estate, or by a corporation, having real property in more than one tax district in the county, the assessors shall fix a time subsequent to the third Tuesday in August, but not later than the thirty-first day of August, for a hearing and to review their assessment.

§ 2. This act shall take effect immediately.

CHAPTER 210

AN ACT to amend the town law, in relation to powers of town boards of towns adjoining cities of the first class to enact ordinances.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-two-a of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by chapter two hundred and eighteen of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:¹

L. 1909,
ch. 63,
§ 142a, as
added by
L. 1919,
ch. 218,
amended.

§ 142-a. **Ordinances in certain towns.** The town board of any town, within a county having a population of more than three hundred thousand according to the last federal or state census or enumeration, adjoining a city of the first class having a population of one million and upwards, and the town board of any town adjoining any city of the first class,² may enact, amend and repeal ordinances, rules or regulations for the following purposes:

1. Relating to peace and good order generally. To preserve the public peace and good order; to prevent and suppress vice, immorality, disorderly and gambling houses and houses of ill-fame, riots and tumultuous assemblages, unnecessary crowds upon the streets, or in doorways or stairways adjacent thereto, or loitering about such places, and all disorderly, noisy, riotous or tumultuous conduct within the town, disturbing the peace and quiet of the town or any meeting or assembly therein.

2. Animals at large. To restrain the running at large of horses, cattle, sheep, unmuzzled dogs, fowls or other animals, and may authorize the impounding and sale of the same for the penalty and costs of keeping and proceedings, or the killing of such unmuzzled dogs.

3. Amusements. To regulate or prevent coasting, ball playing or any act, amusement or practice endangering property or persons on the streets or public grounds.

¹ Section 142a is amended by adding a subd. 18 by L. 1922, ch. 322, post.

² Words "and the town board of any town adjoining any city of the first class," new.

4. Incumbering the streets; encroachments. To regulate or prevent incumbering the streets or public grounds with any material whatever, or any encroachment or projection in, over, or upon any of the streets or public grounds, or any excavations immediately adjacent thereto.

5. Barbed wire fences. To forbid the use and maintenance, by owners and occupants of property abutting on public streets or grounds, of barbed wire or similar fences along the boundaries of such streets or grounds.

6. Shade trees. To protect and preserve shade trees in the streets and public places, and to prevent the hitching of horses to such trees.

7. Railroad crossings; speed. To regulate the time during which cars, engines or trains may stand upon the street crossings of railroads; to regulate the speed of locomotives and cars, subject to the provisions of the railroad law, and by a two-thirds vote of all the members of the board, to require railroad companies to erect gates or crossings, to employ competent men to attend the same, and to employ competent flagmen at such crossings.

8. Fireworks and firearms. To regulate or prevent the discharge of firearms, rockets, gunpowder or other explosives, or the making of bonfires.

9. Gunpowder. To regulate the storing, sale or transportation of gunpowder or other explosives within the town.

10. Swimming and bathing. To regulate swimming and bathing in open water, exposed to the public, within or bounding the town.

11. Vulgar language or conduct. To punish profane, vulgar or obscene language or conduct in any street or public place in the town.

12. Malicious mischief. To punish the wilful and malicious breaking, marring, injury, removal or defacement of any building, fence, awning, sign, sign-board, tree, shrubbery or other ornamental thing in the town, the removal from or piling up before any door or on any sidewalk or street of boxes, casks or other things, the tearing down of any notice or hand-bill lawfully posted, or inciting or inducing dogs to fight in any of the streets or public places in the town.

13. False alarm of fire. To punish the wilful giving of a false alarm of fire.

14. Conduct at fires. To punish insubordination or disorderly conduct at fires, the obstruction of the operations of the fire department or the wilful neglect or refusal to obey or the attempt to prevent or to obstruct the execution of the orders of the town board or officers of the fire department.

15. Keeping of swine. To regulate or prohibit the keeping of swine within the town limits.

16. Keeping of calves. To regulate the keeping of calves within the town limits.

17. Licensing public carriages, et cetera. To prohibit the pur-

suit or exercise without license of the following occupations, to wit: The running of public carriages, cabs, hacks, carts, drays, express wagons, automobiles, or other vehicles for the transportation within the town, for hire, of persons or property, soliciting or running therefor, or for hotels.

If any such trade or occupation shall be so prohibited, the town board shall establish uniform fees for license therefor and such rules and regulations as they deem proper, and the supervisor shall issue a license therefor specifying the fee to be paid therefor to such persons or corporations as he shall deem fit and proper for such trade or occupation. Every such license shall be countersigned by the town clerk who shall keep a record thereof and of the amount of the fee paid therefor. The license shall not take effect until the payment to the town clerk of the fee fixed by the town board for such license. Any applicant who shall have been refused such license by the supervisor, may apply to the town board therefor at a meeting thereof; the same may be granted or refused by the board; the supervisor may suspend any such license until the next meeting of the town board; thereupon said license may be revoked or continued by the town board.

And to prescribe penalties, rules or regulations for the violation of such ordinances and to maintain actions at law for the recovery of such penalties by legal proceedings in the name of and on behalf of the town, but not to exceed two hundred dollars shall be recoverable for any single violation of such rules and regulations and the justice's court of the justices of the peace in such towns shall have jurisdiction to hear, try and determine complaints for the violation of said ordinances, rules and regulations and to impose fines equal to the penalty prescribed by said ordinances, rules and regulations for violations of the same and to commit any person convicted of a violation of said ordinances, rules or regulations to the jail of the county in case of default of payment of the fine imposed for such violation for a term not exceeding one day for each and every dollar of such fine. Said ordinances, rules and regulations may provide that when a violation of the same is continuous, each twenty-four hours thereof shall constitute separate and distinct violations. Ordinances which the town board may adopt shall be published before they shall go into effect in a newspaper published in the town, if any, and also in such other newspaper or newspapers as may be designated by the town board, and posted in at least three public places in the town. Such ordinances shall take effect ten days after date of such publication, if any, and posting. The certificate of the town clerk shall be prima facie evidence of the adoption and publication of all such ordinances, rules and regulations.

§ 2. This act shall take effect immediately.

CHAPTER 211

AN ACT to amend the town law, in relation to the drainage of agricultural lands.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 63,
§ 307, as
added by
L. 1921,
ch. 534,
amended.

Section 1. Section three hundred and seven of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by chapter five hundred and thirty-four of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 307. **Hearing; determination; damages.** Upon receipt of such petition, the town board shall appoint a time and place when and where it will hold a hearing for the purpose of determining the necessity for such drainage and the occupancy of such lands and assess the damage and benefits resulting therefrom. The town board shall cause copies of such petition, to which shall be attached a notice of the time and place of such hearing, to be served personally or by registered mail upon all owners of land specified in the petition. If any such owner is an infant such petition and notice shall be served on his general guardian or person with whom he resides; if a lunatic, idiot or habitual drunkard, upon his committee or person with whom he resides. Such notice shall be served as herein provided at least fifteen days prior to the date of such hearing. The town board shall view the premises affected and at the time and place appointed hear all parties interested and such witnesses as they may produce. Such hearing may be adjourned from time to time at the discretion of such board. At the close of such hearing, if the town board or a majority thereof shall determine that the occupancy of such lands or any part thereof is necessary for the drainage of the petitioner, it may make a determination specifying in detail the drains, ditches or dykes to be erected or constructed and assess the damages and fix the compensation to be made therefor, but no such determination shall permit any such construction at a cost to exceed three hundred and fifty dollars. In fixing the amount of such compensation, the board may make allowance or deduction for benefits received by any such lot owner. Such determination shall be signed by the town board, or a majority thereof, and copies thereof, duly certified, served personally or by registered mail upon each lot owner affected. A certified copy of such determination shall also be filed in the office of the clerk of the county in which such lands are located.

¹ The town board may, after a hearing therefor, order the reconstruction or repair of an existing ditch, drain or dyke, and shall

¹ Remainder of section new.

specify in detail the manner in which and to what extent the same shall be reconstructed or repaired and shall assess the damages and make compensation therefor. The hearing for the reconstruction or repair of such ditch, drain or dyke shall be held and the determination made in the same manner and upon like notice as for the original construction of a ditch, drain or dyke.

§ 2. This act shall take effect immediately.

CHAPTER 212

AN ACT to amend the town law, in relation to the fiscal year in Ontario county.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections five hundred and ninety-one, five hundred and ninety-two and five hundred and ninety-three of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as such sections were added by chapter one hundred and seventy of the laws of nineteen hundred and nineteen, are hereby amended to read, respectively as follows:

L. 1909,
ch. 85,
§§ 591-593,
as added
by L. 1919,
ch. 170,
amended.

§ 591. **Fiscal year; departmental estimates.** The fiscal year of each town in Ontario county shall hereafter commence on the first day of ¹January and end on the thirty-first day of December in each year. All officers, boards and commissioners in such town shall annually and at least one month immediately preceding the end of the fiscal year, make and file with the town clerk of the town estimates in writing of the amount of expenditures for the next fiscal year in their respective offices, bureaus and departments, including a statement of their salaries and the salaries of all their subordinates, and a statement of all claims and demands incurred by such officers, boards and commissioners of such town remaining unpaid, which estimates and statements the town clerk shall lay before the town board at a meeting called for that purpose by him not less than two weeks before the end of the fiscal year. The town clerk shall enter all such estimates in the minutes of the proceedings of the town board.

§ 592. **Annual estimates.** The town board of the town shall on or before the fifteenth day of December² make an itemized statement in writing of the estimated revenues and expenditures of the town for the fiscal year for which estimates were filed with the town clerk, which shall be known as its annual estimate. The estimate of revenues shall contain an estimate of the probable revenues, which in the judgment of the town board will be

¹Remainder of sentence formerly read: "October and end on the thirtieth day of September in each year."

²Formerly "September."

received by the town board during the fiscal year, except from general taxes, less the amount required to be deposited to the credit of the sinking fund, if any; a statement of the amount of the sinking fund, which in the judgment of the town board is available and should be applied to pay the principal or any bonded indebtedness of the town falling due during the said fiscal year; and a statement of all unexpended balances or estimated unexpended balances of the previous or current fiscal year, remaining to the credit of the town, or of any office, board or department thereof. The estimate of expenditures shall contain an estimate of the several amounts of money which the town board deems necessary to provide for the expense of conducting the business of the town, each board, department and office thereof separately stated, and for other purposes contemplated by this chapter and otherwise by law for the said fiscal year; to pay the principal and interest of any bonded or other indebtedness of the town falling due within the said fiscal year; and the amount of any judgment recovered against the town and payable during the said fiscal year, and there shall be included in the first annual estimate compiled after the provisions of this article shall take effect, a sum or sums sufficient to pay all accounts, claims and demands against the town audited by the town board or otherwise payable by the town for the past fiscal year. After the said annual estimate shall have been completed, it shall be entered in full upon the minutes of the town board.

§ 593. **Public hearing.** Immediately after the annual estimate has been completed, the town board shall give notice of a public hearing at which any person favoring or objecting to said estimate, or any part or item thereof, will be heard. Such hearing shall be given upon ten days' notice. The notice shall specify the time and place where the meeting is to be held, and the purpose thereof, and it shall be stated therein that the annual estimate has been compiled by the town board and is on file in the office of the town clerk, where any person interested therein may examine the same. Such hearing shall be held not later than the tenth day of January.³ Copies of such notice shall be posted in six conspicuous public places in the town and published twice in the newspapers, if any, not exceeding two, published and having a general circulation in the town, or if no newspaper be published, then in two newspapers published in the county, if the town board shall so determine, such posting and first publication to be at least ten days before the date of such public hearing. At the time and place in such notice mentioned, the town board shall convene and review the said estimate. At such hearing, taxpayers may be heard in favor or against the estimate as compiled, or for or against any item therein contained. After such hearing and on or before the twentieth day of January,³ the town board shall adopt such estimate as so originally compiled, or shall diminish or reject any items therein contained, and adopt said estimate as

³ Formerly "October."

so amended. It shall have the power to diminish or reject any item contained in the estimate as originally compiled, except those relating to salaries, the indebtedness of the town or the estimated revenues, but it shall not have the power to increase any estimated appropriation for expenditures, except the estimate for highways, which the board may increase or reduce as prescribed by section ninety-one of the highway law. Thereupon, the estimate as adopted shall be entered in detail in the minutes of the proceedings of the town board.

§ 2. This act shall take effect immediately.

CHAPTER 213

AN ACT to provide for the submission to the electors of the town fire district of the town of Woodbury, in the county of Orange, of a proposition for the acquisition of fire engines and apparatus for the extinguishment of fires, and, if such proposition is adopted, authorizing the issuance of bonds of said district in payment therefor.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within six months after this act takes effect the electors of the town fire district of the town of Woodbury, county of Orange, at a special meeting lawfully called by the town clerk of the said town, who is hereby authorized to call such meeting, and held in the manner provided for holding town meetings in said town may vote, by ballot, a sum of money not exceeding twenty thousand dollars for the purchase of fire engines and apparatus for the extinguishment of fires in accordance with the provisions of section three hundred and thirteen of article sixteen of chapter sixty-three of the laws of nineteen hundred and nine,¹ as last amended by chapter five hundred and seventy-seven of the laws of nineteen hundred and seventeen.

Vote of
electors
authorized.

§ 2. If such proposition shall be adopted, the sum so voted may be raised by the town board of the said town of Woodbury by the issue and sale of bonds of said town in the manner provided by section three hundred and thirteen-a of article sixteen of chapter sixty-three of the laws of nineteen hundred and nine, as added by chapter five hundred and seventy-seven of the laws of nineteen hundred and seventeen. Such bonds shall be a charge upon the town, and the amount necessary to pay said bonds and the interest thereon as the same becomes due shall be collected from the property within such district in the manner provided in section three hundred and thirteen-b of chapter sixty-three of the laws of nineteen hundred and nine, as added by chapter five hundred and seventy-seven of the laws of nineteen hundred and seventeen.

Issuance
of bonds
authorized.

Bonds;
town
charge;
payment.

§ 3. This act shall take effect immediately.

¹ Town law.

CHAPTER 214

AN ACT to authorize the town of Waterford, in the county of Saratoga, to acquire, complete and maintain a park and monument in memory of soldiers and sailors, and to provide for the payment thereof by the issue of bonds.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acquisition,
mainte-
nance and
bond issue
authorized.

Section 1. The town of Waterford, in the county of Saratoga, may acquire, complete and maintain at an expense not exceeding eight thousand dollars, suitable lands in said town as a park and monument in memory of the soldiers and sailors thereof, and may improve the same for such purposes and issue its bonds to pay the cost thereof in a sum not exceeding eight thousand dollars; such bonds shall be signed by the supervisor and town clerk and sealed with the town's seal and shall be of the denomination of one thousand dollars each, bearing interest at a rate not exceeding six per centum per annum and shall mature annually, the first of said bonds as consecutively numbered to mature on the first day of July, nineteen hundred and twenty-four, and one of said bonds on the first day of July in each year thereafter.

Approval
of tax-
payers.

§ 2. No such park shall be acquired, erected, completed or improved until approved by a majority vote of the taxpayers of said town at a special meeting thereof to be called for such purpose, and when such park shall have been acquired the title thereto shall be taken in the name of the town of Waterford.

Title in
town.

§ 3. This act shall take effect immediately.

CHAPTER 215

AN ACT to amend chapter thirty-six of the laws of nineteen hundred and eighteen, entitled "An act to revise, amend and consolidate the charter of the village of Watkins," in relation to time of holding elections.

Became a law March 23, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1918, ch.
36, § 13
amended.

Section 1. Section thirteen of chapter thirty-six of the laws of nineteen hundred and eighteen, entitled "An act to revise, amend and consolidate the charter of the village of Watkins," is hereby amended to read as follows:

§ 13. **Elections; when held.** The election of officers under this act shall be held on the second Tuesday of March¹ in each year, at such places in said village as shall be designated by the trustees, and ten days' notice of such election and the place

¹ Formerly "April."

thereof shall be given by publishing the same in all the newspapers printed in said village or by posting the same in three of the most public places in said village.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two. In effect
July 1,
1922.

CHAPTER 216

AN ACT to amend the banking law, to permit any savings bank trustee to deposit in any savings bank of which he is a trustee.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a), subdivision one, section two hundred sixty-seven of chapter three hundred sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows: L. 1914, ch.
369, § 267,
subd. 1,
¶ (a)
amended.

1. A trustee of a savings bank shall not

(a) Have any interest, direct or indirect, in the gains or profits of the savings bank, except to receive dividends upon the amounts contributed by him to the guarantee fund and the expense fund of the savings bank, as provided in sections two hundred thirty-four and two hundred thirty-five of this article. ¹Any trustee may, however, deposit in any savings bank of which he is a trustee and receive dividends or interests on such deposits the same as any other depositor. Restrictions on
trustees.

§ 2. This act shall take effect immediately.

CHAPTER 217

AN ACT to authorize the town of Barton, in the county of Tioga, to borrow money and issue bonds therefor to pay the town's share of the cost of carrying a certain highway over the tracks of the Lehigh Valley Railway Company, and providing for the payment of said bonds.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. For the purpose of paying the share of the town of Barton in the county of Tioga of the cost of carrying the Broad street extension over the tracks of the Lehigh Valley Railway Company in said town in the manner determined by the public service commission by orders heretofore or hereafter made in case number five thousand five hundred and seven, the said town Bond issue
authorized.

¹ Following sentence new.

Bonds;
interest,
maturity,
etc.

Tax for
payment.

of Barton is hereby authorized and empowered to borrow money and issue bonds of said town therefor in an amount not exceeding the sum of fifty-five thousand dollars. Said bonds shall bear interest at a rate not exceeding five and one-half per centum per annum, payable semi-annually, and shall mature in annual installments. The first of such installments shall mature not later than two years from the date of said bonds, and no installment shall be more than fifty per centum in excess of the smallest prior installment and all of said bonds shall mature within a period not exceeding thirty years from the date of said bonds. Said bonds shall be authorized by resolution adopted by the affirmative vote of not less than two-thirds of all the members of the town board and no further authorization shall be necessary. Said bonds shall be sold at public sale for not less than their par value in the manner provided by law, and shall be signed by the supervisor and sealed with the corporate seal of the town, attested by the town clerk, and the interest coupons, if any, shall be signed with the facsimile signature of the supervisor. There shall be annually raised by tax upon all the taxable property of the town a sum sufficient to pay the principal and interest of said bonds as the same become due.

§ 2. This act shall take effect immediately.

CHAPTER 218

AN ACT to authorize the village of Cedarhurst, Nassau county, to accept by gift, grant or devise, a sewer system constructed at private expense, and providing for the operation, extension and maintenance thereof.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of trustees of the village of Cedarhurst, Nassau county, may, upon behalf of and for the benefit of the residents of such village, accept by gift, grant or devise, a sewer system theretofore constructed in such village at private expense and establish, extend and maintain such sewer system. The board shall, at the expense of such village and within three months after the acceptance of any such privately owned sewer system, cause a map and plan of the sewer system, together with any proposed extensions thereof, to be made, with specifications of dimensions, connections and outlets or sewage disposal works. Such map and plan shall be submitted to the state commissioner of health for his approval, and if approved shall be filed in his office. A copy thereof shall also be filed in the office of the village clerk. No work shall be done for the modification or extension of any such sewer system until so filed and approved. The board may raise annually by tax a sum sufficient to pay the cost of operation, maintenance or extension of such sewer system and charge the same to the property benefited.

§ 2. This act shall take effect immediately.

CHAPTER 219

AN ACT to amend the civil practice act, in relation to certain references.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twelve hundred and ninety-five of the civil practice act is hereby amended to read as follows: § 1295 amended.

§ 1295. **Stay of proceedings.** Except as prescribed in this section, a certiorari order does not stay the execution of the determination to be reviewed or affect the power of the body or officer against which or whom it is granted. The court which grants the order, in its discretion and upon such terms as to the security or otherwise as justice requires, may direct that the execution of the determination be stayed pending the certiorari and until the further direction of the court. A bond, undertaking or other security given to procure such a stay is valid and effectual, according to its terms, in favor of a person beneficially interested in upholding the determination to be reviewed, who is admitted as a party to the special proceeding, as prescribed in section thirteen hundred and two¹ of this act.

§ 2. Section fourteen hundred and sixteen of the civil practice act, as added by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one² is hereby amended to read as follows: § 1416, as added by L. 1921, ch. 199, amended.

§ 1416. **Notice to be given in certain cases.** Where the person to be removed is a tenant at will or at sufferance the petition must state the facts showing that the tenancy has been terminated by giving notice as required by law. Where the application is made in a case specified in section fourteen hundred and eleven³ of this act, the petition must state that a notice in behalf of the applicant requiring all persons occupying the property to quit the same by a day therein specified has been either served personally upon the person or persons to be removed or affixed conspicuously upon the property at least ten days before the day specified therein.

§ 3. Sections fifteen hundred and fourteen and fifteen hundred and fifty-six⁴ of the civil practice act, as renumbered and amended by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one, are hereby amended, respectively, to read as follows: §§ 1514, 1556, as renumbered and amended by L. 1921, ch. 199, amended.

§ 1514. **Allowances limited to two thousand dollars.** But all the sums awarded to the plaintiff as prescribed in section fifteen

¹Formerly read: "section thirteen hundred and seventeen."

²Section 1416 was amended by L. 1922, ch. 156, ante. The amendment made by said ch. 156 is identical with that here effected.

³Formerly read: "section three hundred and eighty."

⁴Section 1556 was amended by L. 1922, ch. 144, ante. The amendment here made was incorporated in § 1556, as amended by said ch. 144.

hundred and twelve of this act, or to a party or two or more parties on the same side as prescribed in subdivision four of section fifteen hundred and ten² of this act, and in subdivision second of the last section, cannot exceed in the aggregate two thousand dollars.

§ 1556. **Certain sections not applicable to counties comprising city of New York.** The provisions of sections fifteen hundred and fifty-three, fifteen hundred and fifty-four, fifteen hundred and sixty-three, fifteen hundred and sixty-seven, and subdivision four of section fifteen hundred and fifty-eight of this act shall not apply to the county clerks of the counties of New York, Kings, Bronx, Queens and Richmond.

The provisions of section fifteen hundred and fifty-four³ of this act shall not apply to the registers of the counties of New York, Kings and Bronx, nor to the county clerks of Queens and Richmond when acting as recording officers.

§ 4. This act shall take effect immediately.

CHAPTER 220

AN ACT to amend chapter five hundred and eleven of the laws of eighteen hundred and eighty-nine, entitled "An act to amend, revise and consolidate the several acts relating to the village of Cooperstown, in the county of Otsego," in relation to the powers of the trustees.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 9a
added to
L. 1889, ch.
511, § 19.

Section 1. Section nineteen of title three of chapter five hundred and eleven of the laws of eighteen hundred and ninety-nine,¹ entitled "An act to amend, revise and consolidate the several acts relating to the village of Cooperstown, in the county of Otsego," is hereby amended by adding a new subdivision after subdivision nine, to be subdivision nine-a, to read as follows:

9-a. To regulate the trapping, ensnaring, catching or taking of skunks within the corporate limits of the village of Cooperstown in steel traps and to prohibit the trapping, ensnaring, catching or taking of skunks in traps other than box traps within the corporate limits of said village.

§ 2. This act shall take effect immediately.

¹ Formerly read: "section fifteen hundred and four."

² Formerly read: "section fifteen hundred and sixteen."

³ Should read: "eighteen hundred and eighty-nine."

CHAPTER 221

AN ACT to amend the condemnation law, in relation to fees of commissioners.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen of chapter nine hundred and twenty-three of the laws of nineteen hundred and twenty, entitled "An act in relation to the acquisition, by condemnation, of real property for a public use, constituting chapter seventy-three of the consolidated laws," is hereby amended to read as follows:

L. 1920,
ch. 923,
§ 14
amended.

§ 14. **Duties and powers of commissioners.** The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceeding before them, from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days' notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proof and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without unnecessary delay, ascertain and determine the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any; and they shall each be entitled to compensation not exceeding twenty-five dollars¹ for services for every day they are actually engaged in the performance of their duties, and their necessary expenses to be paid by the plaintiff,² as may be awarded by the court.

§ 2. This act shall take effect immediately.

¹ Words "compensation not exceeding twenty-five dollars," substituted for words "six dollars."

² Remainder of section materially amended.

CHAPTER 222

AN ACT to amend the county law, in relation to the appointment of chaplains to the county jail of Nassau county.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 94a
added to
L. 1909,
ch. 16.

Section 1. Chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended by inserting therein a new section, to follow section ninety-four, to be section ninety-four-a, to read as follows:

§ 94-a. **Chaplains in Nassau county.** The board of supervisors of the county of Nassau is hereby authorized and empowered from time to time to designate as chaplains to the county jail in such county not to exceed two persons and to provide for the payment of their expenses. Such expenses shall not exceed the annual sum of two hundred and fifty dollars for each chaplain.

§ 2. This act shall take effect immediately.

CHAPTER 223

AN ACT to amend the county law, in relation to the salary of the county judge of Saint Lawrence county.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
16, § 222,
subd. 43
amended.

Section 1. Subdivision forty-three of section two hundred and thirty-two of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows:

43. St. Lawrence : 2,400 00¹ 1,750 00

Salary
provided,
in effect
when.

§ 2. The salary provided in section one of this act for the county judge of Saint Lawrence county shall take effect on the expiration of the term of the present incumbent, and until the expiration of such term such officer shall receive the salary authorized by law on January first, nineteen hundred and twenty-two.

§ 3. This act shall take effect immediately.

¹ Formerly "1,750 00."

CHAPTER 224

AN ACT to amend the education law, in relation to issue of school bonds in the school district of the city of Jamestown.

Accepted by the City.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision five of section eight hundred and seventy-nine of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," such chapter having been amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such section having been added by chapter seven hundred and eighty-six of the laws of nineteen hundred and seventeen, and such subdivision having been last amended by chapter three hundred and sixty-seven of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1909,
ch. 21
(revision
of L. 1910,
ch. 140),
§ 879, subd.
5, as
amended
by L. 1920,
ch. 367,
amended.

5. In a city in which the boundaries of the school district or districts are not coterminous with the city boundaries, and in the city school district of the city of Jamestown taxes may be raised in installments and district bonds issued for any of the purposes enumerated in paragraph c of subdivision one of section eight hundred and seventy-seven of this chapter, in the manner provided and under the conditions prescribed by the education law for the levy and collection of taxes in installments and the issue and sale of bonds of union free school districts.

Taxes and
bond issues
in certain
cities for
buildings,
etc.

All bonds of the union free school district of the city of Jamestown, as so designated by chapter two hundred and seventy-nine of the laws of eighteen hundred and eighty-seven, issued by the board of education of such district under the provisions of such act prior to June eight, nineteen hundred and seventeen, and now outstanding, or hereafter to be issued for school purposes,² shall be the bonds of the city school district of the city of Jamestown, and shall not be reckoned as a part of the city debt.

§ 2. This act shall take effect immediately.

¹ Subd. 5 was added by L. 1918, ch. 252.

² Words "or hereafter to be issued for school purposes," new.

CHAPTER 225

AN ACT authorizing the trustees of public buildings to destroy or sell books, papers, records and documents of the former office of state superintendent of elections.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The trustees of public buildings are hereby authorized and empowered to sell or destroy the books, papers, records and documents of the former office of state superintendent of elections, the custody of which was transferred to such trustees by chapter five hundred and fifty-five of the laws of nineteen hundred and twenty-one. If any such property be sold, the proceeds shall be paid into the state treasury as provided in section thirty-seven of the state finance law.

§ 2. This act shall take effect immediately.

CHAPTER 226

AN ACT to promote the health and efficiency of firemen in cities of the state.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Two
platoons
to be
provided,

Section 1. After this act takes effect, the fire commissioner, the chief of the fire department or other officer or officers having the management, control or direction of the fire department of any city of the first class in the state, shall divide the captains, lieutenants, engineers and firemen of such department into two platoons. No one of such platoons, or any member thereof, shall be assigned to more than one tour of duty; such tour of duty shall not exceed ten hours between eight o'clock in the morning and six o'clock in the evening or fifteen hours between six o'clock in the evening and nine o'clock in the morning of each consecutive twenty-four hours, excepting that in the event of conflagrations, riots or other similar emergency, or for the purpose of changing tours of duty, said platoons or the members thereof may be continued on duty for such hours as may be necessary.

Tours to
be changed.

The tours of duty of the captains, lieutenants, engineers and firemen of such fire department shall be changed at least once in each calendar week.

Penalty.

Any fire commissioner, the chief of the fire department or other officer or officers having the management, control or direction of the fire department of any city of the first class in this state who shall fail to divide the captains, lieutenants, engineers and fire-

men of such department into two platoons within the time specified in section one of this act shall be deemed to have forfeited his office and upon the written petition of any citizen of this state must be removed therefrom by the supreme court of the judicial district within which such city is contained. A copy of such petition must be served upon the officer accused and he shall have the right to appear and to give evidence and to be heard in his defense.

§ 2. All general or special laws inconsistent with this act or with any part thereof are hereby repealed. Provided, however, that this act shall in no manner affect any provisions of said laws concerning furlough or leave of absence of said captains, lieutenants, engineers and firemen or exempting them from obligation to wear uniform when not on actual duty. Inconsistent acts.

§ 3. This act shall take effect immediately.

CHAPTER 227

AN ACT to authorize the town board of the town of Frankfort, Herkimer county, to make an appropriation to defray or assist in defraying the expenses of the celebration in such town of the two hundredth anniversary of its settlement.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Frankfort in Herkimer county may submit to a special town meeting a proposition to raise by tax a sum not to exceed five thousand dollars for the purpose of defraying, or assisting in defraying, the expenses incident to the celebration by such town in the year nineteen hundred and twenty-three of the settlement of said town in the year seventeen hundred and twenty-three. Submission of proposition authorized.

§ 2. If the proposition provided for in the last section shall be adopted at any special town meeting, the town board of the town of Frankfort, in Herkimer county, may appropriate such sum as shall be so voted for the purpose stated in such proposition. The money appropriated for such purpose shall be a town charge and shall be assessed, levied and collected the same as other town expenses and shall be expended under the direction of the town board. Appropriation; assessment; expenditure.

§ 3. This act shall take effect immediately.

CHAPTER 228

AN ACT to amend the general business law, in relation to conferring additional jurisdiction upon the municipal court of the city of New York, with reference to milk cans.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
35, § 271,
as amended
by L. 1918,
ch. 376,
amended.

Section 1. Section two hundred and seventy-one of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws," as amended by chapter three hundred and seventy-six of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 271. **Penalty and action to recover.** Any person violating any provision of this article shall forfeit to such owner or dealer or shipper or his agent the sum of fifty dollars for every such violation, and an action may be brought therefor in the name of any such agent without joining the real party in interest that he represents, and in any such action brought for any such violation different persons may be joined as plaintiffs, whether jointly or severally interested therein, and different persons may be joined as defendants therein who have severally violated any such provisions, and a recovery may be had in favor of one or more of such plaintiffs against one or more of such defendants.

Such action may be brought in a court of record having jurisdiction thereof, and the place of trial thereof shall in such case be laid in the county where the defendant resides at the time of the commencement thereof, or it may be brought in a justice's court or other court not of record having similar jurisdiction, in the town, city or county for which such court is constituted and in which the defendant resides at the time of the commencement of the action. Any such action must be begun within one year after the cause of action accrued.

¹ The municipal court of the city of New York shall have jurisdiction over actions brought under the provisions of this article against residents of said city and such court and the judges thereof shall in such actions have and exercise all the powers now conferred by said article on courts not of record, and the marshals of said court shall have to like extent the powers of constables provided in said article.

§ 2. This act shall take effect immediately.

¹ Following paragraph new.

CHAPTER 229

AN ACT to amend the highway law, in relation to county aid for construction and improvement of highways through cities of the third class, in the county of Cattaraugus.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section three hundred and twenty-f, to read as follows:

§ 320-f. County aid for connecting highways through cities of the third class in the county of Cattaraugus. The board of supervisors of the county of Cattaraugus may, upon the petition of the board of aldermen, or other governing body, of a city of the third class located in such county, provide for the construction or improvement of a highway or section thereof through such city of the third class at the joint expense of the county and city. The board of supervisors shall determine the portion of the cost of the construction and improvement of such highway to be borne by the county and the portion to be borne by the city. The portion to be borne by the city shall be a city charge and the residue shall be a county charge. The amount to be borne by the county shall be provided by tax, to be levied upon the taxable property of the county and collected in the same manner as other county charges and shall be paid into the county treasury and such tax shall not be reported as a basis for state aid as provided by section three hundred and twenty-b of this chapter. The board of supervisors may, in its discretion, appropriate and make immediately available from county funds the portion of the moneys to be borne by the county. If it shall determine that sufficient moneys are not available, after defraying other county expenses, it may direct the county treasurer to borrow the same in anticipation of taxes or it may authorize the issue and sale of bonds therefor, to be issued and sold in the same manner as other county bonds. No such highway shall be so constructed and improved within a city, except to connect a highway improved pursuant to the provisions of sections three hundred and twenty, three hundred and twenty-a or three hundred and twenty-b of this chapter, with a state or county highway, or county road, or to connect with another town highway improved pursuant to the provisions of sections three hundred and twenty, three hundred and twenty-a or three hundred and twenty-b of this chapter. Such construction shall not be commenced until the portion to be borne by the city, as determined by the board of supervisors, has been deposited in the county treasurer's office of such county. The construction or improvement of a highway,

§ 320f
added to
L. 1909,
ch. 30.

as herein provided, shall be done under the supervision and direction of the county superintendent of highways, or of a committee known as the highway officials of the county, to consist of the county superintendent, three members of the board to be appointed by the chairman and the supervisor or supervisors representing the ward or wards through which such road is being improved. Payments therefor shall be made from time to time by the county treasurer upon the certificate of the county superintendent, approved by the chairman of the board of supervisors. A street or highway within any such city, constructed or improved as herein provided, shall be of the same width and type of construction as such town highway so improved by the aid of the county outside the city, unless a greater width or different type of construction is desired by the city. The additional expense caused by the increased width or different type, or both, if any, shall be borne by the city. Any such street or highway, when completed, shall thereafter be repaired and maintained by the city, wherein such street or highway is located, in the same manner as other city streets or highways.

§ 2. This act shall take effect immediately.

CHAPTER 230

AN ACT to amend the insanity law, in relation to mentally defective inmates of Matteawan State Hospital.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Paragraph added to L. 1909, ch. 32, § 140, as renumbered by L. 1912, ch. 59.

Section 1. Section one hundred and forty of chapter thirty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the insane, constituting chapter twenty-seven of the consolidated laws," being former section one hundred and twenty as thus renumbered by chapter fifty-nine of the laws of nineteen hundred and twelve, is hereby amended by adding thereto a new paragraph, to read as follows:

Transfer of mentally defective inmates.

Any convict, before or after expiration of sentence, who, in the opinion of the medical superintendent, is a mental defective and who does not show evidence of insanity, may be transferred by the state commission for mental defectives on an application made by the medical superintendent, accompanied by a certificate of mental defect made by two examiners, qualified as provided in section twenty-five of the mental deficiency law. Any inmate held on the order of a court or judge in a criminal proceeding who, in the opinion of the medical superintendent, is a mental defective and who does not show evidence of insanity may be transferred by the state commission for mental defectives to a state institution under their jurisdiction on the application of the superintendent accompanied by a certificate of mental defect executed

by two qualified examiners. When such a transfer is made the superintendent shall notify in writing the district attorney of the county from which the inmate was committed and the clerk of the court making the commitment, who shall make proper record thereof. After the transfer of any such inmate he may be returned to the said hospital upon the order of the commission for mental defectives, whenever in its judgment it shall appear that the said inmate is not a proper person to be detained in a state institution for mental defectives. The order of the commission, directing the return of such inmate shall state the reasons for such return.

§ 2. This act shall take effect immediately.

CHAPTER 231

AN ACT to amend the justice court act, in relation to a certain reference.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-seven of the justice court act is hereby amended to read as follows: § 127 amended.

§ 127. **General rules of pleading.** A pleading, except as otherwise prescribed in section one hundred and seventy-two¹ of this act, may be oral or written. If it is oral, the substance thereof must be entered by the justice in his docket-book; if it is written, it must be filed by him and a reference to it made in his docket-book. A pleading is not required to be in any particular form; but it must be expressed so as to enable a person of common understanding to know what is intended.

§ 2. This act shall take effect immediately.

CHAPTER 232

AN ACT to authorize the town board of the town of Lima, Livingston county, to expend not more than twenty-five hundred dollars in the enlargement and improvement of the building heretofore constructed in such town for a lock-up and other purposes.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Lima, Livingston county, is hereby authorized to expend from the surplus funds of the town not more than twenty-five hundred dollars in enlarging and improving the building heretofore constructed in such town,

¹ Formerly read: "section two hundred and ten."

pursuant to chapter four hundred and six of the laws of eighteen hundred and seventy-two, at the joint expense of the town of Lima and the village of Lima, for a lock-up and for other purposes. Such building, when enlarged and improved, pursuant to this act, may be used for the public library and for other general town purposes.

§ 2. This act shall take effect immediately.

CHAPTER 233

AN ACT to legalize, ratify and confirm all of the acts and proceedings of the union free school district number five, town of Portville, in the county of Cattaraugus, its qualified electors, board of education, officers and agents in relation to the borrowing of money and the issuance and sale of bonds of said union free school district for the purpose of raising money to defray the costs and expenses of building and fully equipping an addition to the present high school building in the village of Portville, New York, including plumbing, heating and lighting system and furniture, as authorized by a special meeting of the qualified electors of said school district, held February twenty-first, nineteen hundred and twenty-two, and to provide for the issuance, sale and payment of such bonds.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acts and
proceed-
ings
legalized.

Section 1. All of the acts and proceedings of the union free school district number five, town of Portville, in the county of Cattaraugus, and the qualified electors thereof, its board of education, officers and agents, including the several actions, proceedings and resolutions of the board of education of said union free school district number five, and of the special meeting of the qualified voters of said union free school district held in said union free school district February twenty-first, nineteen hundred and twenty-two, and all such actions, proceedings and resolutions prior or subsequent thereto relating to the propositions submitted at said special meeting to borrow upon the faith and credit of said union free school district number five the sum of eighty thousand dollars, or so much thereof as should be necessary, and to issue bonds of such union free school district number five of the town of Portville, in the denomination of one thousand dollars each to secure the payment of said loan bearing interest from their date at the rate of not exceeding six per centum per annum, such interest payable semi-annually on June first and December first of each year during the term of said bonds, respectively, said bonds to be dated June first, nineteen hundred and twenty-two, and the principal of said bonds to mature and be paid as follows: three thousand dollars on June first, nineteen hundred and twenty-five and three thousand dollars on June first in each year thereafter to and including the year nineteen hundred and fifty and two thousand dollars thereof on June first, nineteen hundred and fifty-one, relating to the proposed issuance and sale of said bonds

to provide funds to defray the cost and expense of building and fully equipping an addition to the present high school building in the village of Portville, New York, including plumbing, heating and lighting system and furniture, as more specifically recited in the form of proposition submitted to and adopted by the qualified voters at such special meeting, all and singular ratified, confirmed, validated and legalized, notwithstanding any defect, irregularity, omission or addition or want of lawful authority in said proposition so submitted, or in the publication of the notice of such special meeting, or in any of said actions, proceedings or resolutions; and such bonds when issued and sold shall be valid and subsisting obligations of said union free school district number five, town of Portville aforesaid. Bonds validated.

§ 2. The board of education of said union free school district number five, town of Portville, aforesaid, shall annually cause to be raised by tax a sum sufficient to pay the principal and interest of such bonds as they shall respectively become due, and until said bonds and interest are fully paid; such taxes to be laid upon the taxable property of said union free school district number five, levied in the same manner as other taxes of said union free school district are levied. Tax for payment.

§ 3. Such bonds shall be sold for not less than par in the manner provided by law, and the proceeds shall be applied to the objects so authorized at said special meeting. Sale; application of proceeds.

§ 4. This act shall not affect any actions or proceedings now pending in any court. Pending actions.

§ 5. This act shall take effect immediately.

CHAPTER 234

AN ACT to amend the surrogate's court act, in relation to publication of notice of creditors.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and seven¹ of the surrogate's court act is hereby amended to read as follows: § 207 amended.

§ 207. **Notice to creditors; affidavit of claimant; proof of contingent claim.** The executor or administrator at any time after the granting of his letters, may insert a notice once in each week for six months in such newspaper or newspapers printed in the county as the surrogate directs, requiring all persons having claims against the deceased to exhibit the same, with the vouchers therefor, to him, at a place to be specified in the notice, at or before a day therein named, which must be at least six months from the day of the first publication of the notice. ²In the event the executor or administrator dies, resigns or is removed from

¹ As amended by L. 1921, ch. 629.

² Following sentence new.

office, or the newspaper in which such notice is published suspends publication, during the period such notice is required to be published, a new notice shall be published, as the surrogate directs, for the length of time required to complete the six months' publication of such notice. In any county containing wholly within its boundaries a city of the first class or a city of the second class, such notice may be inserted once in each alternate week for a period of twenty-six weeks. The executor or administrator may require satisfactory vouchers in support of any claim presented and the affidavit of the claimant that the claim is justly due, that no payments have been made thereon, and that there are no offsets against the same to the knowledge of the claimant.

Whenever at the death of any person there shall be a contingent or unliquidated claim against his estate, or an outstanding bond, recognizance or undertaking upon which the deceased shall have been principal, surety, or indemnitor and on which at the time of his death the liability is still contingent or unliquidated, a claimant or a surety shall have the right to file with the executor or administrator of the estate of the deceased on or before the day named in the notice provided for in this section, an affidavit setting forth the facts upon which such contingent or unliquidated liability is based and the probable amount thereof, and there shall be no distribution of the assets of said estate without the reservation of sufficient moneys to pay such contingent or unliquidated claim when the amount thereof is finally determined. If before a final judicial accounting and a decree thereon such contingent or unliquidated claim or liability shall have become fixed and liquidated, then evidence of the same may be filed with the executor or administrator of the estate of the deceased in lieu of the contingent claim provided for; and such claim as fixed and liquidated shall be a debt of such estate. If such contingent or unliquidated claim has not become so fixed and liquidated, the decree on a final accounting shall direct that a sum sufficient to satisfy the claim, or the proportion to which it is entitled, be retained in the hands of the accounting party for such period or periods as the court may deem proper for the purpose of being applied to the payment of such claim when fixed and liquidated; and that so much of such sum as is not needed for such purpose be afterwards distributed according to law.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 235

AN ACT to amend the surrogate's court act, in relation to fees of stenographers in surrogate's court of Monroe county.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 30, subd.
2 amended. Section 1. Subdivision two of section thirty of the surrogate's court act is hereby amended to read as follows:

2. Except where otherwise agreed or when special provision is otherwise made by statute, a stenographer is entitled, for a copy fully written out from his stenographic notes of the testimony required to be made in any proceeding for the record of the surrogate's court of the counties of New York, Bronx, Kings, Erie and Monroe,¹ ten cents for each folio; and the surrogate may order that the fees for such record copy be paid out of the estate to which the proceeding relates.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

Fees of
steno-
graphers.

In effect
Sept. 1,
1922.

CHAPTER 236

AN ACT to amend the town law, in relation to contracts for fire protection in school districts.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and fourteen-b of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by chapter three hundred and ninety-two of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

L. 1909, ch.
63, § 314b,
as added by
L. 1913, ch.
292,
amended.

§ 314-b. Incorporated fire companies. Upon the written petition of a majority of the resident taxpayers of any water district, highway district,² water supply district or school district³ in which any incorporated fire company shall have its headquarters, the town board of any town in behalf of such water district, highway district or water supply district or the trustee or trustees of such school district in behalf of such school district⁴ may make a contract with any such incorporated fire company for fire protection to be furnished within such water district, highway district,² water supply district or school district³ for a sum not to exceed in any one year ten cents upon each one hundred dollars of assessed valuation of taxable property lying within such water district, highway district,² water supply district or school district,³ as appears by the last preceding town assessment-roll of said town or school district,³ and for a period not exceeding five years at any one time. The amount of any contract that may be entered into pursuant to the provisions of this section shall be assessed, levied and collected upon the taxable property in said district in the same manner, at the same time and by the same officers as

¹ Inclusion of Monroe county new.

² Word "or" omitted.

³ Words "or school district" new.

⁴ Words "in behalf of such water district, highway district or water supply district or the trustee or trustees of such school district in behalf of such school district," new.

the taxes, charges or expenses of said town or school district^a are now assessed, levied and collected and the same shall be paid over by the supervisor of the town or the collector of the school district^a to the corporation or incorporated fire company furnishing such fire protection. This section shall apply to a water supply district formed under the provisions of section eighty-one of the transportation corporations law, as well as to water districts, highway districts or water supply districts formed under the provisions of this chapter. No such contract shall be made, however, with any such fire corporation unless it has, in the opinion of the town board, suitable apparatus and appliances for the furnishing of such fire protection in said district.

§ 2. This act shall take effect immediately.

CHAPTER 237

AN ACT to amend the village law, in relation to submission of propositions in the county of Nassau.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 64, § 56, as amended by L. 1910, ch. 4, amended.

Section 1. Section fifty-six of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," as amended by chapter four of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 56. **Submission of propositions; special election.** The board of trustees may, upon its own motion, and shall, upon the petition of twenty-five electors qualified to vote upon a proposition, cause to be submitted at a village election a proposition upon any question which may be lawfully decided thereat; ¹ provided, however, that in the county of Nassau such a proposition, unless submitted by the board of trustees of its own motion, shall only be submitted upon a petition signed by the following number of electors qualified to vote upon such proposition: In villages of the first class, by two hundred qualified electors; in villages of the second class, by one hundred and fifty qualified electors; in villages of the third class, by fifty qualified electors; and in villages of the fourth class, by twenty-five qualified electors. A separate board of fire, water, light, sewer, cemetery or other commissioners may present to the board of trustees a petition, requesting the submission of a specified proposition, relating to its department, at a village election. Upon the presentation of such petition, the board of trustees shall cause the proposition to be

^a Words "or school district" new.

^a Words "of the town or the collector of the school district," new.

¹ Remainder of sentence new.

submitted accordingly. If a petition under this section be presented after the annual election and before the first day of January following, a special election shall be called, to be held not less than ten nor more than twenty days after the presentation of such petition. If a petition be presented at any other time, and more than ten days prior to the annual election, the proposition shall be submitted at such annual election. Except for the purpose of fixing or changing the number of trustees, or for the purpose of determining whether an officer shall be thereafter elected or appointed, or the submission of a proposition to pay the additional expense of a state or county highway through the village, no special election shall be held in the months of February or March. The foregoing provisions in this section contained in respect to the time of presentation of a petition under this section and prohibiting a special election in February or March, shall not apply to villages which hold their annual election in June, but in such a village the board of trustees may, upon its own motion, submit a proposition at a special village election in April, and if such a petition be presented after the annual election, and before the first day of April following, a special election shall be called in the manner hereinbefore provided; but if a petition be presented at any other time and more than ten days prior to the annual election, the proposition shall be submitted at such annual election. Except for the purpose of fixing or changing the number of trustees, or for the purpose of determining whether an officer shall be thereafter elected or appointed, or the submission of a proposition to pay the additional expense of a state or county highway, no special election shall be held in such a village in the month of May or June. Notice of a special election for the submission of a proposition shall be given in the same manner as for an annual election. Such special election shall be held by the same officers, and conducted and the result canvassed in the same manner as an annual election.

§ 2. This act shall take effect immediately.

CHAPTER 238

AN ACT making an appropriation for the payment by the state in the first instance of the federal government's share of the cost of construction and improvement of rural post roads within the state as provided under the provisions of an act of congress, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," as amended.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of one million two hundred thirty-two thousand one hundred forty-nine dollars and thirty-two cents (\$1,232,149.32) is hereby appropriated from any moneys in the

state treasury not otherwise appropriated, payable by the state treasurer on the warrant of the comptroller. Such sum or so much thereof as may be necessary, shall be available for the payment in the first instance of the share of the federal government of the cost of construction or reconstruction of roads within the state as provided by an act of congress, entitled "An act to amend the act entitled 'An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes,' approved July eleventh, nineteen hundred and sixteen, as amended and supplemented, and for other purposes," approved November ninth, nineteen hundred and twenty-one, said sum to be used for the payment in the first instance of the federal government's share of estimates rendered during the progress of such construction, and the state shall be reimbursed by the federal government for such advance payments upon such estimates under the contract upon which such payments are made. The comptroller is hereby authorized to receive from the federal government the amounts so advanced upon such contracts, and to deposit the funds with the state treasurer to the credit of the general fund so that upon the completion of all such contracts contemplated under the acts of the federal government the state shall be reimbursed for the full amount of any and all such payments.

§ 2. This act shall take effect immediately.

CHAPTER 239

AN ACT making an appropriation for the state's share of the cost of construction and improvement of rural post roads within the state, under the provisions of certain acts of congress, which provide that the United States shall aid in the construction of rural postal roads, and for other purposes, to be expended in accordance with article six-a of the highway law.

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Appropriation.

Section 1. The sum of one million two hundred and fifty thousand dollars (\$1,250,000) is hereby appropriated, from any moneys in the state treasury not otherwise appropriated, to be expended for the payment of the state's share of the cost of construction or reconstruction of highways within the state, as provided by certain acts of congress, which provide that the United States shall aid the states in the construction of the rural post roads and for other purposes, and by article six-a of the highway law, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one, and for the payment of preliminary engineering charges by the state in making of surveys and the preparation of necessary plans, specifications and estimates on such highways and also the payment of overhead charges and

items disallowed by the federal government. The amount available in this state from the appropriation of the federal government, which became available November ninth, nineteen hundred and twenty-one, for such construction is one million two hundred and thirty-two thousand one hundred and forty-nine dollars and thirty-two cents (\$1,232,149.32).

§ 2. The money hereby appropriated shall be expended in the construction or reconstruction of any state highway which is described and set forth in section one hundred and twenty of the highway law, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one; for the construction of any county highway designated and set forth in section one hundred and twenty-two, as amended by chapter eighteen of the laws of nineteen hundred and twenty-one, and for the reconstruction of any county highway as defined in section one hundred and twenty-two of chapter eighteen of the laws of nineteen hundred and twenty-one, provided the designation of such highway as a joint co-operative road is approved by the United States secretary of agriculture, in accordance with the aforesaid acts of congress.

For what
highways
to be ex-
pended.

§ 3. The cost of construction of such proposed federal aid highways, for which the funds are made available by this act, shall be borne as provided in article six-a of the highway law, as amended. The cost of reconstruction, exclusive of preliminary expenses, of any state or county highway as provided in section two of this act shall be borne fifty per centum by the federal government and fifty per centum by the state, except as provided in sections one hundred and seventy-seven and one hundred and eighty of the highway law.

Apportion-
ment of
cost of
construction.

§ 4. If it shall become necessary or be deemed advisable to eliminate any railroad grade crossings in connection with the construction or improvement of the federal aid highways, designated and described by this act, the cost of making such elimination shall be borne fifty per centum by the railroad company owning the railroad affected by the elimination in accordance with the provisions of the railroad law, twenty-five per centum by the federal government and twenty-five per centum by the state in the case of a state highway, and jointly by the federal government, state and county in the case of a county highway in the same proportion as the cost of construction or improvement of such county highway is paid.

Cost of
elimina-
tion of rail-
road grade
crossings.

§ 5. If any federal aid highway designated and described by this act shall be constructed into or through an Indian reservation, then the cost of construction of such highway shall be borne fifty per centum by the federal government and fifty per centum by the state.

Cost of
construction
through
Indian
reservation.

§ 6. This act shall take effect immediately.

CHAPTER 240

AN ACT making appropriations for the maintenance and repair of improved state and county highways, and repealing chapter forty of the laws of nineteen hundred and twenty-two, entitled "An act making appropriations for the maintenance and repair of improved state and county highways."

Became a law March 24, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Appropriation.

Section 1. The several amounts named in this act, or so much thereof as may be necessary, are hereby appropriated from any moneys in the treasury not otherwise appropriated, together with any accrued interest on unexpended balances while in the hands of county treasurers, to be expended in accordance with the provisions of chapter thirty of the laws of nineteen hundred and nine, as amended, being the highway law.

DEPARTMENT OF HIGHWAYS.

DIVISION No. 1.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number one. The following amounts to be made immediately available for the purposes herein indicated: Columbia county, seventy-six thousand seven hundred twenty-four dollars (\$76,724); Dutchess county, one hundred twenty-two thousand two hundred eighty-one dollars (\$122,281); Greene county, sixty-six thousand nine hundred sixty-seven dollars (\$66,967); Nassau county, thirty-five thousand nine hundred eighty-eight dollars (\$35,988); Orange county, one hundred eighty-six thousand seven hundred forty-eight dollars (\$186,748); Putnam county, fifty-five thousand eight hundred ten dollars (\$55,810); Rockland county, sixty-three thousand seven hundred forty-three dollars (\$63,743); Suffolk county, sixty-four thousand ninety-two dollars (\$64,092); Ulster county, one hundred fifteen thousand three hundred sixty-six dollars (\$115,366); Westchester county, one hundred thirty-eight thousand seventy dollars (\$138,070); Queens county, five hundred two dollars (\$502).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$49,002 00
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SCHEDULE B.**Division Expenses.**

(Other than personal service.)

Supplies		
Office	\$450 00	
Hired horses and vehicles and hired motor vehicles	6,250 00	
Traveling expenses	3,970 00	
Communication	510 00	
Rents — office	630 00	
Advertising and printing	160 00	
		11,970 00
(General charges — Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$4,500 00	
Motor equipment and war tax	3,750 00	
Boilers and engines	3,505 00	
Heating kettles	1,110 00	
Rollers	5,400 00	
Distributers	1,750 00	
Wagons	1,600 00	
Mechanical loaders	900 00	
Road machines	3,275 00	
Tools and general plant	4,830 00	
Repairs for motor vehicles and maintenance equipment	24,488 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	8,000 00	
Storehouse		
Acquisition of site for and construction of	25,000 00	
Storage rental	8,030 00	
		96,138 00
Total for Schedule B.....	\$108,108 00	

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... \$88,390 00

SCHEDULE E.

For highways to be reconstructed either by contract
or directly by the department..... 15,000 00

SCHEDULE F.**General Maintenance and Repair.**

Personal service	
Wages, temporary	
Foremen, laborers, mechanics,	
chauffeurs, teams and trucks....	\$371,803 00
Industrial equipment	
Rental of	
Rollers, crushers, distributors and	
tools	17,400 00
Supplies for equipment	39,550 00
Materials	
Including broken stone, sand, gravel,	
iron ore tailings, bituminous mate-	
terials, cement, sulphite liquor,	
paint, lumber, calcium chloride	
and general plant	236,763 00
Drainage	
Acquisition of right of way for.....	275 00
Total for Schedule F	665,791 00
Total for Division No. 1.....	\$926,291 00

DIVISION No. 2.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number two; and repair of wooden trestle bridge over South bay, Lake Champlain, on state route number forty-eight. The following amounts to be made immediately available for the purposes herein indicated: Albany county, two hundred thousand three hundred forty-nine dollars (\$200,349); Clinton county, fifty-five thousand dollars (\$55,000); Essex county, ninety thousand dollars (\$90,000); Rensselaer county, one hundred fifty-six thousand five hundred dollars (\$156,500); Saratoga county, seventy-five thousand dollars (\$75,000); Schenectady county, ninety-eight thousand dollars (\$98,000); Warren county, forty-five thousand dollars (\$45,000); Washington county, one hundred one thousand five hundred dollars (\$101,500).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$44,079 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$200 00	
Hired horses and vehicles and hired motor vehicles	3,700 00	
Traveling expenses	2,170 00	
Communication	700 00	
Rents — office	900 00	
Advertising and printing	120 00	
		7,790 00
(General charges — Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$2,000 00	
Motor equipment and war tax	2,000 00	
Stone crushing plants	5,000 00	
Rollers	4,000 00	
Tools and general plant	7,000 00	
Repairs for motor vehicles and maintenance equipment	10,000 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	4,000 00	
Storehouse		
Acquisition of site for and construction of	1,000 00	
Storage rental	2,000 00	
		37,000 00
Total for Schedule B	\$44,790 00	

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department	
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SCHEDULE D.

For highways to be surface treated either by contract or directly by the department..... \$80,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 128,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks....\$297,480 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 2,300 00

Supplies for equipment 28,900 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous materials,
cement, sulphite liquor,
paint, lumber, calcium chloride
and general plant 165,400 00

Repair of wooden trestle bridge over
South bay, Lake Champlain, located
on state route number forty-eight,
between highway numbers five thousand
five hundred and seventy-eight
and five thousand six hundred and
thirty-seven-a 30,000 00

Total for Schedule F..... \$524,080 00

Total for Division No. 2..... \$821,349 00

DIVISION No. 3.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced, either by contract or directly by the department; highways to be surface treated, either by contract or directly by the department; highways to be reconstructed, either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number three. The following amounts to be made immediately available for the purposes herein indicated: Franklin county, sixty-four thousand one hundred forty-five dollars (\$64,145); Jefferson county, one hundred forty thousand six

hundred eighty-one dollars (\$140,681); Lewis county, forty-six thousand nine hundred thirty-three dollars (\$46,933); St. Lawrence county, one hundred seventy-one thousand five hundred seventy-six dollars (\$171,576).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$27,800 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office	\$430 00
Hired horses and vehicles and hired motor vehicles	3,600 00
Traveling expenses	3,225 00
Communication	1,080 00
Rents — office	635 00
Advertising and printing	690 00

9,660 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$2,000 00
Motor equipment and war tax	2,000 00
Mechanical loaders	3,000 00
Distributers	1,200 00
Rollers	5,500 00
Concrete mixers	2,000 00
Tools and general plant	6,000 00
Repairs for motor vehicles and maintenance equipment	12,000 00
Motor vehicle insurance	
Liability, property damage, collision and fire	3,000 00
Storehouse	
Acquisition of site for and construction of	10,000 00
Storage rental	1,500 00

48,200 00

Total for Schedule B \$57,860 00

SCHEDULE C.

For highways to be resurfaced, either by contract
or directly by the department

SCHEDULE D.

For highways to be surface treated either by con-
tract or directly by the department 44,400 00

SCHEDULE E.

For highways to be reconstructed either by contract
or directly by the department 67,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks \$136,575 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 3,500 00

Supplies for equipment 25,000 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous mate-
rials, cement, sulphite liquor,
paint, lumber, calcium chloride
and general plant 61,200 00

Total for Schedule F 226,275 00

Total for Division No. 3 \$423,335 00

DIVISION No. 4.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number four. The following amounts to be made immediately available for the purposes herein indicated: Fulton county, forty-nine thousand seven hundred forty dollars (\$49,740); Hamilton county, thirty-one thousand five hundred seventy dollars (\$31,570); Herkimer county, eighty-six thousand nine hundred ninety-five dollars (\$86,995); Madison county, sixty-two thousand two hundred four dollars (\$62,204); Montgomery county, seventy-one thousand five hundred seventy-five dollars (\$71,575); Oneida county, two hundred forty-four thousand eight hundred eleven dollars (\$244,811).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$28,950 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office	\$60 00
Hired horses and vehicles and hired motor vehicles	5,100 00
Traveling expenses	1,875 00
Communication	274 00
Rents — office	360 00
Advertising and printing	270 00

7,939 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$9,000 00
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Motor equipment and war tax	2,000 00
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Rollers	3,500 00
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Heating kettles	1,500 00
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Mechanical loaders	2,500 00
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Road machines	600 00
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Concrete mixers	1,000 00
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Distributers	2,000 00
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Tools and general plant	3,000 00
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Repairs for motor vehicles and maintenance equipment	10,000 00
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Motor vehicle insurance

Liability, property damage, collision and fire	5,000 00
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Storehouse

Acquisition of site for and construction of	14,500 00
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Storage rental	2,000 00
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56,600 00

Total for Schedule B	\$64,539 00
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SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department	
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SCHEDULE D.

For highways to be surface treated either by contract or directly by the department \$95,000 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 63,000 00 .

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks....\$181,462 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 4,000 00

Supplies for equipment 18,000 00

Materials

Including broken stone, sand, gravel,
bituminous materials, cement,
paint, lumber and general plant 91,794 00

Drainage

Acquisition of right of way for..... 150 00

Total for Schedule F 295,406 00

Total for Division No. 4 \$546,895 00

DIVISION No. 5.

For the maintenance and repair of state and county highways including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number five. The following amounts to be made immediately available for the purposes herein indicated: Broome county, ninety-eight thousand eighty dollars (\$98,080); Chenango county, one hundred sixty-nine thousand six hundred ten dollars (\$169,610); Delaware county, one hundred thirty-four thousand four hundred fifty dollars (\$134,450); Otsego county, ninety-one thousand four hundred twenty dollars (\$91,420); Schoharie county, forty-six thousand three hundred seventy dollars (\$46,370); Sullivan county, fifty-one thousand dollars (\$51,000).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$32,000 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office	\$300 00
Hired horses and vehicles and hired motor vehicles	4,800 00
Traveling expenses	2,400 00
Communication	400 00
Rents — office	600 00
Advertising and printing	120 00

8,620 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war materials turned over to New York State under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same.....	\$2,500 00
Motor equipment and war tax.....	2,500 00
Rollers	5,000 00
Concrete mixers	350 00
Spreader wagon (sand and stone) ..	700 00
Tools and general plant	4,050 00
Repairs for motor vehicles and maintenance equipment	5,000 00
Motor vehicle insurance	
Liability, property damage, collision and fire	1,500 00
Storehouse	
Acquisition of site for and construction of	10,500 00
Storage rental	2,000 00

84,100 00

Total for Schedule B	\$42,720 00
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SCHEDULE C.

For highways to be resurfaced either by contract
or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 52,600 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 121,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks \$204,610 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 2,000 00

Supplies for equipment 17,000 00

Materials

Including broken stone, sand, gravel,
slag, iron ore tailings, bituminous
materials, cement, paint, lumber,
calcium chloride and general plant. 119,000 00

Total for Schedule F..... \$342,610 00

Total for Division No. 5 \$590,930 00

DIVISION No. 6.

For the maintenance and repair of state and county highways including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number six. The following amounts to be made immediately available for the purposes herein indicated: Cayuga county, forty-five thousand six hundred seventy-five dollars (\$45,675); Cortland county, fifty-three thousand six hundred five dollars (\$53,605); Onondaga county, one hundred thirty-four thousand three hundred forty-five dollars (\$134,345); Oswego county, eighty-eight thousand one hundred seven dollars (\$88,107); Seneca county, twenty-five thousand two hundred seventy-five dollars (\$25,275); Wayne county, forty-three thousand six hundred five dollars (\$43,605).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection employees	\$26,000 00
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SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$60 00	
Hired horses and vehicles and hired motor vehicles	3,900 00	
Traveling expenses	2,600 00	
Communication	320 00	
Rents — office	800 00	
Advertising and printing	30 00	
		7,710 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$9,000 00
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Motor equipment and war tax	5,000 00
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Tools and general plant	10,000 00
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Repairs for motor vehicles and maintenance equipment	20,000 00
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Motor vehicle insurance

Liability, property damage, collision and fire	7,000 00
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Storehouse

Acquisition of site for and construction of	14,500 00
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Storage rental	500 00
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		66,000 00
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Total for Schedule B	\$73,710 00
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SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department	
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SCHEDULE D.

For highways to be surface treated either by contract or directly by the department	53,400 00
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SCHEDULE E.

For highways to be reconstructed either by contract
or directly by the department

SCHEDULE F.

General Maintenance and Repair.

Personal service

Wages, temporary

Foremen, laborers, mechanics,
chauffeurs, teams and trucks ...\$166,502 00

Industrial equipment

Rental of

Rollers, crushers, distributors and
tools 1,000 00

Supplies for equipment 15,000 00

Materials

Including broken stone, sand, gravel,
iron ore tailings, bituminous mate-
rials, cement, sulphite liquor,
paint, lumber, calcium chloride
and general plant 55,000 00

Total for Schedule F..... 237,502 00

Total for Division No. 6 \$390,612 00

DIVISION NO. 7.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number seven. The following amounts to be made immediately available for the purposes herein indicated: Genesee county, forty-one thousand six hundred fifty-five dollars (\$41,655); Livingston county, one hundred ninety-six thousand nine hundred thirty-four dollars (\$196,934); Monroe county, two hundred seventy-one thousand six hundred twenty-six dollars (\$271,626); Ontario county, one hundred thirty-six thousand five hundred five dollars (\$136,505); Orleans county, forty-five thousand dollars (\$45,000); Wyoming county, fifty thousand dollars (\$50,000).

SCHEDULE A.

Personal Service.

Salaries, temporary

Engineering, supervision and inspection em-
ployees \$41,190 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies		
Office	\$180 00	
Hired horses and vehicles and hired motor vehicles	5,050 00	
Traveling expenses	2,500 00	
Communication	615 00	
Rents—office	2,315 00	
Advertising and printing	170 00	
		\$10,780 00
(General charges—Department tools, plant and equipment.)		
Industrial equipment		
Purchase of		
Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$4,500 00	
Motor equipment and war tax	3,000 00	
Rollers	6,000 00	
Distributors	1,500 00	
Concrete mixers	1,200 00	
Mechanical loaders	3,600 00	
Tools and general plant	3,605 00	
Repairs for motor vehicles and maintenance equipment	14,340 00	
Motor vehicle insurance		
Liability, property damage, collision and fire	3,000 00	
Storehouse		
Acquisition of site for and construction of	3,000 00	
Storage rental	500 00	
		44,245 00
Total for Schedule B		\$55,025 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 93,808 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 255,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service	
Wages, temporary	
Foremen, laborers, mechanics,	
chauffeurs, teams and trucks	\$175,308 00
Industrial equipment	
Rental of	
Rollers, crushers, distributors and	
tools	4,040 00
Supplies for equipment	14,828 00
Materials	
Including broken stone, sand, gravel,	
iron ore tailings, bituminous mate-	
rials, cement, sulphite liquor,	
paint, lumber, calcium chloride	
and general plant	102,371 00
Drainage	
Acquisition of right of way for	150 00
Total for Schedule F	296,697 00
Total for Division No. 7	\$741,720 00

Division No. 8.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number eight. The following amounts to be made immediately available for the purposes herein indicated: Allegany county, one hundred fifty-six thousand three hundred three dollars (\$156,303); Chemung county, fifty-two thousand four hundred twenty-four dollars (\$52,424); Schuyler county, thirty-five thousand nine hundred twenty-five dollars (\$35,925); Steuben county, one hundred twenty-five thousand nine hundred seventy-seven dollars (\$125,977); Tioga county, fifty-one thousand nine hundred seventy-nine dollars (\$51,979); Tompkins county, seventy-seven thousand five hundred seventy-seven dollars (\$77,577); Yates county, thirty-eight thousand nine hundred fifty-seven dollars (\$38,957).

SCHEDULE A.

Personal Service.

Salaries, temporary	
Engineering, supervision and inspection em-	
ployees	\$31,000 00

SCHEDULE B.

Division Expenses.

(Other than personal service.)

Supplies

Office	\$90 00
Hired horses and vehicles and hired motor vehicles	4,000 00
Traveling expenses	3,500 00
Communication	750 00
Rents — office	250 00
Advertising and printing	198 00

8,788 00

(General charges — Department tools, plant and equipment.)

Industrial equipment

Purchase of

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same

\$4,000 00

Motor equipment and war tax

4,000 00

Rollers

12,000 00

Road machines

2,800 00

Tools and general plant

3,314 00

Repairs for motor vehicles and maintenance equipment

12,000 00

Motor vehicle insurance

Liability, property damage, collision and fire

4,000 00

Storehouse

Acquisition of site for and construction of

10,000 00

Storage rental

4,000 00

56,114 00

Total for Schedule B \$64,902 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 54,400 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department 56,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service	
Wages, temporary	
Foremen, laborers, mechanics,	
chauffeurs, teams and trucks	\$168,840 00
Industrial equipment	
Rental of	
Rollers, crushers, distributors and	
tools	5,000 00
Supplies for equipment	14,000 00
Materials	
Including broken stone, sand, gravel,	
iron ore tailings, slag, bituminous	
materials, cement, sulphite liquor,	
paint, lumber, calcium chloride and	
general plant	145,000 00
 Total for Schedule F	 332,840 00
 Total for Division No. 8.....	 \$539,142 00

DIVISION No. 9.

For the maintenance and repair of state and county highways, including personal service; division expenses other than personal service; highways to be resurfaced either by contract or directly by the department; highways to be surface treated either by contract or directly by the department; highways to be reconstructed either by contract or directly by the department; and for general maintenance and repairs in the counties comprising division number nine; and for the reconstruction of pavement on the viaduct on state highway number five thousand six hundred and sixty-three. The following amounts to be made immediately available for the purposes herein indicated. Cattaraugus county, eighty-four thousand six hundred eighty-five dollars (\$84,685); Chautauqua county, seventy-one thousand four hundred eighty dollars (\$71,480); Erie county, three hundred twenty-six thousand two hundred four dollars (\$326,204); Niagara county, seventy-two thousand seven hundred fifteen dollars (\$72,715).

SCHEDULE A.

Personal Service.

Salaries, temporary	
Engineering, supervision and inspection em-	
ployees	\$27,376 00

SCHEDULE B.**Division Expenses.**

(Other than personal service.)

Supplies	
Office	\$228 00
Hired horses and vehicles and hired motor vehicles	3,200 00
Traveling expenses	1,075 00
Communication	410 00
Rents — office	565 00
Advertising and printing	600 00
	\$6,078 00

(General charges — Department tools, plant and equipment.)

Industrial equipment**Purchase of**

Surplus war material turned over to New York state under the Wadsworth-Kahn act and to pay other expenses incidental to the delivery of same	\$5,000 00
Motor equipment and war tax....	5,000 00
Storage tank and motor	1,300 00
Concrete mixers	1,105 00
Distributers	1,500 00
Rollers	4,500 00
Road machines	1,400 00
Tools and general plant	2,295 00
Repairs for motor vehicles and maintenance equipment	8,000 00
Motor vehicle insurance	
Liability, property damage, collision and fire	2,500 00
Storehouse	
Acquisition of site for and construction of	3,000 00
Storage rental	1,665 00
	37,265 00
Total for Schedule B	
	\$43,343 00

SCHEDULE C.

For highways to be resurfaced either by contract or directly by the department

SCHEDULE D.

For highways to be surface treated either by contract or directly by the department 24,200 00

SCHEDULE E.

For highways to be reconstructed either by contract or directly by the department..... 171,000 00

SCHEDULE F.

General Maintenance and Repair.

Personal service		
Wages, temporary		
Foremen, laborers, mechanics,		
chauffeurs, teams and trucks	\$140,000	00
Industrial equipment		
Rental of		
Rollers, crushers, distributors and		
tools	2,065	00
Supplies for equipment	13,900	00
Materials		
Including broken stone, sand, gravel,		
iron ore tailings, bituminous ma-		
terials, cement, sulphite liquor,		
paint, lumber, calcium chloride and		
general plant	108,000	00
Drainage		
Acquisition of right of way for	200	00
For the reconstruction of the pave-		
ment on the viaduct between Sta.		
568 + 66.3 and 579 + 17.4 on State		
Highway No. 5663	25,000	00
Total for Schedule F.....	\$289,165	00
Total for Division No. 9.....	555,084	00
Grand total, Divisions one to nine....	\$5,535,358	00

Amounts
appro-
priated
make up
total to be
divided
among
counties.

§ 2. The amounts shown to be appropriated for expenditure in the several counties of the state make up the total appropriation to be divided among the counties for maintenance and repair purposes, and the itemized schedules attached hereto are for the purpose of indicating the manner in which the amount to be expended in each county was arrived at.

Amounts
to be
deposited
with
county
treasurers.
Counties
responsible.

§ 3. The amounts hereby appropriated for use in the several counties of the state shall be deposited with the county treasurers of such counties as provided by the highway law. Each county of the state shall be responsible to the state for all funds or moneys deposited with the treasurer thereof under this act and an action to recover any loss to or of such funds or moneys may be brought against the county by the comptroller of the state of New York in a court of competent jurisdiction.

§ 4. In addition to the amounts herein appropriated to be expended within the several counties of the state, there is also hereby appropriated the sum of six hundred fourteen thousand six hundred forty-two dollars (\$614,642), being in lieu of the ten per centum which may be retained from appropriations made for maintenance and repair of improved highways as provided by section one hundred and seventy-one of the highway law, which amount shall remain in the state treasury, and so much thereof as shall be necessary may be expended for use in any county when the money herein appropriated for such county has been expended or obligated. This sum shall be paid out by the state treasurer upon the warrant of the comptroller drawn upon the requisition of the state commission of highways, issued when it becomes necessary to expend for the maintenance and repair of improved state and county highways in any county a greater sum than that herein appropriated for use in said county.

Additional appropriation for use when money for county expended.

§ 5. Chapter forty of the laws of nineteen hundred and twenty-two, entitled "An act making appropriations for the maintenance and repair of improved state and county highways," is hereby repealed.

L. 1922, ch. 40 repealed.

§ 6. This act shall take effect immediately.

CHAPTER 241

AN ACT to amend chapter two hundred and sixty-one of the laws of eighteen hundred and fifty-two, entitled "An act to incorporate the New York College of Dental Surgery," in relation to enlarging its power to hold, dispose of and mortgage real and personal property for the purpose of its incorporation, removing the present limitation thereon and defining the scope of its hospital or dispensary.

Became a law, March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter two hundred and sixty-one of the laws of eighteen hundred and fifty-two, entitled "An act to incorporate the New York College of Dental Surgery," as last amended by chapter seventy-eight of the laws of nineteen hundred and five¹ is hereby amended to read as follows:

L. 1852, ch. 261, § 2, as amended by L. 1906, ch. 78, amended.

§ 2. The said corporation is empowered to hold and possess real and personal property and to sell, mortgage and dispose of the same² for the purposes of its incorporation and especially for the instruction of students of dentistry, and the maintenance of a dental hospital or dispensary³ for the purpose of clinical instruction and demonstration,⁴ and to furnish needy and deserving per-

¹ Previously amended by L. 1879, ch. 451.

² Words "and to sell, mortgage and dispose of the same," new. Words "to the amount of five hundred thousand dollars," omitted.

³ Words "or dispensary" new.

⁴ Remainder of section new.

sons in said hospital or dispensary dental aid at moderate charges or gratuitously.

§ 2. This act shall take effect immediately.

CHAPTER 242

AN ACT to amend the conservation law, in relation to the development of water power, diversion and use of water, and state licenses therefor.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch. 647, § 610, subd. 5, as added by L. 1921, ch. 579, amended.

Section 1. Subdivision five of section six hundred and ten of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated law," as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

"Water power site."

5. "Water power site" means the real property including rights appurtenant thereto or which may become appurtenant thereto which,¹ when a² water power is developed, is³ necessary or useful for the construction, maintenance and operation of a plant for the use of a fall of water for the generation of power.

§ 610, subd. 10, as added by L. 1921, ch. 579, amended.

§ 2. Subdivision ten of section six hundred and ten of said chapter as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one is hereby amended to read as follows:

"Reconstruction cost."

10. "Reconstruction cost" of a project or any part thereof⁴ means the actual and reasonable original cost to the licensee of the lands or interests in the lands of such project or such part,⁵ less depreciation if any, plus the cost of reproducing the ways, means and works thereon, less the depreciation of such ways, means and works, including in such costs a reasonable allowance for organization and development expenses, but excluding therefrom any allowance for the value of the license or any contract, lease or franchise, or value as a going concern, or future profits in pending or existing contracts or prospective profits, revenues, dividends or any other intangible element.

Subds. 11, 12, added to § 610, as added by L. 1921, ch. 579.

§ 3. Section six hundred and ten of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended by inserting therein,

¹ Words "real property including rights appurtenant thereto or which may become appurtenant thereto which," substituted for words "lands and rights appurtenant thereto or which may become appurtenant thereto."

² Word "a" substituted for word "the."

³ Word "is" substituted for words "which are."

⁴ Words "or any part thereof" new.

⁵ Words "or such part" new.

after subdivision ten, two new subdivisions, to be numbered eleven and twelve, to read as follows:

11. The term "person" when used in this article, and not otherwise specified, means a person, firm, co-partnership, association or corporation, other than the state, a county, town, city, village, or other political subdivision. "Person."

12. The term "real property" when used in this article, without words of limitation, includes all uplands, lands under water, waters of any lake, pond or stream, all water and riparian rights or privileges, all dams, races, sluice-ways, and machinery connected therewith, and all land, water and rights necessary to carry out any project or development provided for by this article, including the right to divert running water of any stream or streams, and lands necessary for such diversion, and all easements and incorporeal hereditaments, and every estate, interest and right, legal or equitable, in land and water, including terms for years and liens on real property as above defined and all real property as above defined, acquired and used for railroad, highway and other public purposes in any county containing a part of the forest preserve as now constituted. "Real property."

§ 4. Subdivision six of section six hundred and thirteen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: § 613, subd. 6, as added by L. 1921, ch. 579, amended.

6. May issue licenses * in the manner and upon such terms and conditions as are hereinafter provided, and upon such other terms and subject to such other conditions, not inconsistent with the provisions of this article, specified in the preliminary permit as the commission may determine to be proper, in any particular case, for the protection of the interests of the state. Issue of licenses.

§ 5. Subdivisions thirteen, fourteen and fifteen of section six hundred and thirteen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, are hereby renumbered, respectively, subdivisions fourteen, fifteen and sixteen, and such section is hereby amended by inserting therein, after subdivision twelve, a new subdivision thirteen, to read as follows: § 613, subds. 13-15, as added by L. 1921, ch. 579, renumbered subds. 14-16; new subd. 13 added.

13. Shall have the power to fix and determine, after a hearing held upon notice to the parties interested, the amount of an equitable rental, which is hereby charged pursuant to the reservation made by chapter five hundred and ninety-seven of the laws of nineteen hundred and eighteen, for the diversion, as specified in such chapter, of water from the Niagara river in excess of a daily diversion at the rate of fifteen thousand one hundred cubic feet per second, and which shall be fixed in like manner as if the application was made for a license under the provisions of this article before the water was used, and the people of the state may sue for and collect in behalf of the state such rental as so fixed and determined. Rental for diversion of water from Niagara river.

* Remainder of subd. 6 formerly read: "as hereinafter provided."

§ 615, as
added by
L. 1921, ch.
579,
amended.

§ 6. Section six hundred and fifteen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 615. **Licenses.** The commission, subject to the provisions of this article, may upon application issue to any citizen, association of citizens of the United States, or corporation heretofore or hereafter authorized to develop, use, furnish or sell power in this state or to a municipality of the state having such authority a license authorizing the diversion and use for power or other purposes of any of the waters of the state in which the state has a proprietary right or interest, or the bed of which, or the real property required for use of such waters or the right to develop water power,⁷ is vested in the state; or of boundary waters of the state where the state has jurisdiction over the diversion or interference with the flow of the same solely or concurrently with any other jurisdiction or owner of a proprietary right; or to any such applicant when the owner of any water power site or sites which it uses or purposes to use for the production, sale and distribution of heat, light or power to the public; and subject to the property right of others including riparian rights authorizing the construction, maintenance and operation in, across or along any of such lands and waters, of such dams, reservoirs, diverting canals or races, water conduits, power houses, transmission lines and other project works as are deemed necessary or convenient for the development, transmission and utilization of the developable power and authorizing in connection therewith the use of dams or other structures or contiguous or adjacent lands belonging to the state. When any water power site or property necessary to the full development of such a site is owned by the state, or water, the use of which is dependent upon the consent of the state, is not, in the opinion of the commission suitable or necessary for the development of power for public use a license may be issued to a person or corporation for private use under like conditions and with the same restrictions. Whenever the use of water or the erection of structures under a license may affect the navigable waters over which the United States shall have lawfully assumed jurisdiction for purposes of navigation, such license shall not be issued until the plans for such use and structures have been submitted to and approved by the federal authorities as required by law and any licenses shall be at all times subject to the lawful exercise of such jurisdiction over the waters affected by the license for the purposes of navigation. Whenever canal lands, structures or surplus canal or canal feeder waters are covered by the license, the license shall not issue unless the superintendent of public works certifies to the commission in writing that the same are not necessary for the navigation or operation of the canals and shall not become effective until endorsed with his approval. Any licensee in the use of such license, structures or waters shall be at all times subject to such reasonable rules and regulations as

⁷ Words "or the right to develop water power" new.

the superintendent of public works shall from time to time prescribe so that the use thereof by the licensee shall not impair the efficiency of the canals and such use shall at all times be subordinate, to the needs of the canals.

§ 7. Subdivisions one and two of section six hundred and sixteen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, are hereby amended to read as follows:

§ 616,
subds. 1, 2,
as added by
L. 1921,
ch. 579,
amended,
Application
for license.

1. Each applicant for a license shall submit to the commission a written verified application in such form as the commission may prescribe and containing such data or information of the applicant's project as the commission may require. It shall be accompanied by proposed plans and specifications 'showing the nature and extent of the applicant's proposed development and estimates of cost as may be required for a full understanding of the proposed project. 'Such maps, plans and specifications when approved by the commission shall be made a part of the license; and thereafter no changes shall be made in such maps, plans or specifications until such changes shall have been approved and made a part of such license by the commission. Applications shall be filed with the commission in the order of their receipt.

2. Each license covering water power sites or lands, the title to which is vested in the state, shall require the payment by the licensee of an annual charge measured by a fair rental value thereof; in other cases, except where the state has no proprietary interest, an equitable annual charge may be made, in determining which the commission shall give consideration to the cost of producing power by others in competition with the licensee;¹⁰ and every license shall require the payment by the licensee of an annual charge for the purpose of reimbursing the state for the cost of administration of the provisions of this article. The commission, by resolution, shall fix and determine such annual charge, and the time or stage of development from which rentals are to be computed, whereupon if one or more applicants signifies his readiness, and establishes to the satisfaction of the commission his ability, to construct and maintain the proposed project, to pay the charge or rental fixed by the commission, and otherwise to comply with the provisions of this article in the use of such water and property, it shall give notice of such determination and of a time, not less than fifteen days from the date of the first publication of the notice, and of the place of a meeting of the commission, to take action on such application or applications.

Annual
charge.

§ 8. Section six hundred and seventeen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 617, as
added by
L. 1921,
ch. 579,
amended.

§ 617. Preliminary permits. The commission may issue preliminary permits for the purpose of enabling applicants for a

¹⁰ Remainder of sentence new.

¹¹ Following sentence new.

¹² Words "in other cases . . . licensee" new.

license hereunder to secure the data and to perform the acts required by section six hundred and sixteen, provided, however, that upon the filing of any application for a preliminary permit by any person or corporation, the commission before granting such application shall at once give notice of such application in writing to any municipality which, in its judgment, is likely to be interested in or affected by such application. Each such permit shall be for the sole purpose of maintaining priority of application for a license under the terms of this article for such period or periods, not exceeding a total of three years, as in the discretion of the commission may be necessary for making examinations and surveys, preparing maps, plans, specifications and estimates, and making financial arrangements. The permit shall set forth the conditions under which priority shall be maintained and the license issued, ¹¹ and may prescribe any condition of issuing the license for the protection of the interests of the state. ¹² Only one preliminary permit at a time shall be issued and outstanding for the same project. ¹³ The same preference shall be accorded by the commission in considering applications for a preliminary permit as is accorded in considering applications for a license. ¹⁴ Each preliminary permit shall require the permittee to proceed diligently and immediately to secure the data and to perform the acts required by section six hundred and sixteen hereof. ¹⁵ All investigation work in connection with any operations carried on under the preliminary permit shall be subject to the inspection of the commission, its agents and employees, and, from time to time upon the request of the commission, the permittee shall make full reports to the commission of the progress of the work carried on under the preliminary permit, but such reports shall be confidential until final application is made for the license, unless the commission takes proceedings to revoke the preliminary permit. Such permits shall not be transferable and may be cancelled by order of the commission upon failure of the permittee to comply with the conditions thereof.

Subd. 9
added to
§ 618, as
added by
L. 1921,
ch. 579.

§ 9. Section six hundred and eighteen of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended by inserting therein after subdivision eight a new subdivision, to be subdivision nine, to read as follows:

Waiver of
con-
ditions.

9. In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower capacity, the commission may in its discretion waive such conditions, provisions and requirements of this article, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances.

§ 620, as
added by
L. 1921,
ch. 579,
amended.

§ 10. Section six hundred and twenty of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

¹¹ Remainder of sentence new.

¹² Following sentence new.

§ 620. **Rent reserved; revision of rent.** The annual charge or rental fixed by the commission shall continue for the period of the license, unless the license provides for a readjustment of the charge or rental at a specified time or times, in which case the charge or rental, as fixed by the license, may be revised and readjusted by the commission according to the terms of the license.¹² Payments on account of any such charge or rental shall be treated as a part of the operating expense. Ten days' notice of the time and place of the meeting of the commission at which the question of the revision and readjustment of such charge or rental will be considered shall be given to the licensee. The revision and readjustment shall be in the form of a resolution adopted by the commission, whereupon revised and readjusted rental or charge, unless reviewed and reversed or modified as herein provided, shall apply to and govern the license. Any such determination by the commission may be reviewed upon the facts upon certiorari to the supreme court at the instance of the licensee in the manner provided by the code of civil procedure or civil practice act. Any such proceeding must be instituted within thirty days after the service on the licensee of notice of the determination. Pending the final determination of such proceeding by certiorari, the licensee shall pay to the state the revised and readjusted rental or charge as fixed by the commission; and if it shall be determined that the rental or charge shall be revised, the licensee shall be credited on later payments with any excess he may pay over the rental as finally fixed, with interest. If the credits be insufficient to satisfy such excess, the licensee may recover the balance in the court of claims.

§ 11. Section six hundred and twenty-one of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:¹³

§ 621, as added by L. 1921, ch. 579, amended.

§ 621. **Reservations in the license; state control of rates and use and distribution of power.** Every license issued under this article for a project shall contain a provision expressly reserving to the state the right to regulate and control the use and distribution of the power generated by any licensee, and to fix reasonable rates to be charged by the licensee under all circumstances for furnishing heat, light or power generated wholly or partly by the use of property covered by the license, and to regulate the service, capitalization and secured debt of the licensee and licensed project. Jurisdiction is hereby conferred upon, and it shall be the duty of, the public service commission to regulate and control the use and distribution of all power generated by any licensee under this article, or generated by any person, association of persons or corporation by the use and diversion for power purposes of any waters of the state in which the state has a proprietary right or interest, or the bed of which or other real property used in such developments is vested in the state, whether

¹² Following sentence new.

¹³ Section materially amended.

such development is pursuant to permit or legislative grant heretofore made, and to fix reasonable rates to be charged by such licensee or such person, association of persons, or corporation for furnishing heat, light or power generated wholly or partly by the use of water or property in which the state has a proprietary right or interest. In the exercise of such jurisdiction the public service commission shall give preference to municipalities in the use and distribution of power generated by such licensee, or by such person, association of persons or corporation. No municipality shall use, distribute or sell such power generated by such licensee in whole or in part in any manner by the use and diversion for power purposes of any waters of the state in which the state has a proprietary right or interest, or the bed of which or other real property used in such development is vested in the state, whether such development is pursuant to permit or legislative grant heretofore made, for any purpose, other than municipal purposes, in competition with an existing public utility, unless such municipality first secures a certificate of convenience and necessity from the public service commission. To carry out the provisions of this section, and until otherwise provided by law, complaints, inspections, investigations, hearings, rules, regulations, orders and determinations may be made or had, and rules, regulations and orders enforced, in the manner, so far as applicable, provided in the public service commissions law in respect of electrical corporations and of the manufacture, sale and distribution of electricity.

Every license issued pursuant to this act shall contain a condition that the development of power thereunder shall be subject to the control and authority of the public service commission to the extent conferred upon such commission by this section.

§ 622, as
added by
L. 1921,
ch. 579,
amended.

§ 12. Section six hundred and twenty-two of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 622. **Prosecution of project works.** The licensee shall commence the construction of the project works within the time fixed therefor in the license. He shall thereafter in good faith and with due diligence continue the construction thereof, and within the time fixed in the license complete and put into operation the whole of such development work or such part or parts thereof as the license prescribes; except that when not incompatible with the public interest, the commission may, from time to time, for good cause, by resolution extend the time either for the commencement of construction or for the completion thereof. ¹⁴ The licensee shall, when required by the commission, and as often as once in every six months during the course of the construction, file with the commission a detailed statement of the cost of the project during the period covered by the statement. Within six months after the licensee has filed its final statement after the completion of the project, the commission shall file a statement of

¹⁴ Remainder of section new.

the total cost of the investment. The commission at such time or times as it deems proper may examine any statement of the licensee, whether partial or complete, and hold a hearing to determine whether the same correctly states the cost of the project or part thereof, as therein set forth, and shall have power to determine whether any part of the expenditure has been made wastefully, or in disregard of the terms of the license, or in bad faith, and to deduct such items improperly included as may be necessary to make such statement or statements conform to the fair and actual cost of the project or part thereof. Subject to review as herein provided, the determination of the commission shall be conclusive for all purposes as to the amount of such investment as shown by any such statement.

§ 13. Subdivision three of section six hundred and twenty-four of such chapter as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one is hereby amended to read as follows: § 624, subd. 3, as added by L. 1921, ch. 579, amended.

3. Real property, on the application of a corporation organized for the production of heat, light or power, after a determination by the public service commission that such property is necessary to the full development and utilization of a single undeveloped water power site, a major part of the head and volume of the usable flow for power at which site is owned by such corporation, for the production of heat, light or power for sale or distribution to the public and that such heat, light or power is necessary for public use. ¹⁵ In any county containing a part of the forest preserve as now constituted, for the purpose of establishing the right to exercise the power of eminent domain under this subdivision the ownership of wild or unoccupied land shall be presumed to be in an applicant showing a record title under which the applicant or his grantors has claimed for a period of twenty years and it appears that the state and county taxes thereon have been paid by or on behalf of such applicant or his grantors for a period of five years before the proceeding in which the application is made was begun; ownership in other lands wherever located shall be presumed on showing record title in the applicant for a period of twenty years and possession thereunder for a like period. Acquisition of real property by eminent domain.

Such right of eminent domain shall be exercised under the condemnation law subject to the following restrictions and limitations: Restrictions.

(a) The acquisition of real property for the state shall be on the application of the commission, and payment therefor shall be made in the manner provided for the payment of lands appropriated by the state in the Adirondack and Catskill parks under subdivisions six, seven and eight of section fifty-nine of this chapter.

(b) If a water power site be taken under subdivision two of this section, the owner of any such power site shall have the

¹⁵ Following sentence new.

option to receive and own such a proportion of the power resulting from the common development as the head and volume of the usable flow of the water at the site bears to the product of the total head and volume of the usable flow of the waters of the common development, provided he pays a like proportion of the cost of development, maintenance and operation, and consents that his pro rata share of such power shall be pledged to secure such payment, and assents to such reasonable and equitable provisions and regulations in relation to the development and operation thereof for the common benefit and to payment therefor as the commission shall prescribe. In case of the exercise of such option by the owner of a developed water power site, such owner shall also be allowed the loss, if any, resulting to him from the excess in value, if any, of the water power owned by him before such common development over the water power right owned by him after such development, after deducting from the value of such power right his proportion of the cost of such development. Such difference in value shall be deemed a part of the damages in the condemnation proceeding, and the payment thereof shall be secured as directed by the court.

(c) Before any real property is taken under the provisions of subdivision two of this section, the owner or owners of the right to the use of the greater part of the head and volume of usable flow for power at the sites to be developed in common shall, unless such a corporation be already organized and be the owner of such rights, organize a corporation for the production, distribution and sale of heat, light and power to the public, and shall transfer to such corporation such sites. Such corporation shall file with the public service commission a certified copy of its certificate of incorporation and shall also file with such commission a map of the water power sites, and property connected therewith, of which it is the owner, with satisfactory proof that it is the owner thereof, and a map of the water power sites and property which it seeks to acquire for the purpose of making a common development. It shall also file with such commission a plan of its proposed development of water power on the property which it owns and which it seeks to acquire. Such corporation shall file copies of such maps and plan certified by the president and engineer of the corporation, or a majority of the directors, in the office of the clerk of the county in which such development is to be made, or, if it be in more than one county, in the office of the clerk of each county; and shall give written notice to all actual occupants of lands of which it is not the owner on which such development is to be made of the time and place such maps and plan were filed, and that such development is to be made on the lands of such occupants. The public service commission shall give an opportunity to persons interested to be heard, investigate and determine whether it is in the public interest that such development be made and whether the power to be produced is necessary for the supply of the public with heat, light or power. If it shall so determine, it may issue to such

corporation a certificate that public convenience and ¹⁶ necessity require that such development be made, but in granting said certificate the commission may expressly except from its certificate any part of the property proposed to be developed as unnecessary to the plan. Such certificate when issued shall be conclusive evidence as to the matters lawfully certified therein in any proceeding under the condemnation law to acquire the property, or any part thereof, set forth in such certificate.¹⁷

§ 14. Section six hundred and twenty-four of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended by inserting therein four new subdivisions, to be subdivisions four, five, six and seven, to read as follows:

Subds. 4-7
added by
§ 824, as
added to
L. 1921,
ch. 879.

4. Real property, on the application of a corporation authorized to do business in this state and engaged in the production, sale and distribution of heat, light or power to the public, which is necessary to perfect or improve water power already developed, provided that property taken does not impair or injure any developed water power or developed water power site. The corporation may apply for and in a proper case receive from the public service commission a certificate of convenience and necessity for taking the property so to be acquired in the manner and with like effect as provided in paragraph (c) of subdivision three of this section. Any such corporation may also exercise the right of eminent domain to acquire real property in accordance with the provisions of subdivisions two and three of this section.

Acquisition
of real
property by
eminent
domain.

5. If it appears that there is a defect of title or any outstanding interest in any of the real property occupied or to be occupied by the project when completed, the corporation making, or having the right to make, the development of the water power may exercise the right of eminent domain for the purpose of acquiring any such outstanding interest or any real property with respect to which the title appears to be or is defective.

6. In any county containing a part of the forest preserve as now constituted, real property, on the application of a corporation organized for the production of heat, light or power, necessary for the development of a water power site or sites, developed or about to be developed, and occupied by a railroad and real property necessary to and for the relocation of such railroad, upon application to and on order of the public service commission authorizing the same and upon thirty days' notice to the railroad corporation. The public service commission shall grant the order if in its judgment the public interest will be promoted thereby. The relocation of the railroad shall be at the expense of the applicant and in accordance with plans and specifications to be approved by such commission. The applicant shall not take possession of any real property of the railroad necessary for its operation until such relocation of the railroad shall have been completed. The public service commission upon the assent of

¹⁶ Word "a" omitted.

¹⁷ Former subd. (d) omitted.

the railroad may order the abandonment of such part of the railroad as is necessary to be taken instead of ordering a relocation thereof.

7. Real property, on the application of a corporation organized for the production of heat, light or power, which is necessary for the full development of a water power site or sites, developed or about to be developed, and is used or occupied as a burial place or cemetery, and real property necessary to locate and reinter any human remains removed therefrom. Proceedings shall be had for the taking of such real property and removal of such remains in the manner provided by section four hundred and forty-seven of article seven-a of the conservation law, in so far as the provisions thereof are applicable thereto, but such exercise of the right of eminent domain shall be subject to the sound discretion of the court.

§ 624a
added.

§ 15. Such chapter is hereby amended by inserting therein, after section six hundred and twenty-four, a new section, to be section six hundred and twenty-four-a, to read as follows:

§ 624-a. **Use of lands occupied by a public highway.** Whenever, in order to complete any project as provided by this act, it becomes necessary to use lands occupied by a public highway the licensee shall apply to the state commission of highways for permission to relocate such highway, the entire expense of such relocation to be borne entirely by the licensee including any damages to persons or property which may be caused by or result from such location. The new location shall be determined by the state commission of highways and the application of the licensee shall be accompanied by funds in an amount sufficient to provide for the cost of a survey, preliminary plans and all other expenses of the highway commission in determining a suitable relocation.

The licensee shall provide the necessary land for such relocated highway in accordance with land taking maps prepared by the state commission of highways. If such relocation is on state land the fee to the land covered by the right of way shall remain in the state. If the licensee acquires private property for right of way in the relocation of a state or county highway the fee in such right of way shall be deeded to the county or counties in which the same is situated. If the licensee acquires private property for right of way in the relocation of a town highway the fee in such right of way shall be deeded to the town or towns in which the same is situated.

Any such relocation shall be made by the licensee according to plans and specifications approved by the state commissioner of highways.

Upon the completion and acceptance of such relocated highway the original highway for which it is substituted shall be deemed abandoned as a public highway and the relocated highway shall thereafter be maintained in the same manner as was the original highway for which it was substituted.

The highway law shall apply to the relocation of highways as provided in this section so far as applicable thereto and not inconsistent with this act.

§ 16. Section six hundred and twenty-nine of such chapter, ^{§ 629, as added by L. 1921, ch. 579, amended.} as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 629. Revocation of license for non-payment of rent and causes. The commission, by resolution, may terminate and revoke any license for the failure of the licensee to pay, at the time or times provided in the license, the charge or rental provided for in the license or fixed pursuant to law, or for failure promptly to comply with any of the terms, conditions or provisions of this article, or of the license, or with any direction, order, rule or regulation given or made by the commission or otherwise, pursuant to the license or provisions of law.

No resolution terminating or revoking a license shall be adopted until the licensee is afforded an opportunity to appear before the commission and be heard with respect thereto. Ten days' notice of the time and place of the meeting of the commission at which the resolution will be considered shall be given to the licensee.

If the license is terminated or revoked, the state may elect to take any and all interest of the licensee in and to state property covered by the license including all works and structures thereon.

In the event that a license is terminated or revoked as herein provided, the commission may, subject to the making of adequate appropriations therefor, enter into a written agreement with the licensee, providing for the payment to him of the enhanced value, if any, of state property covered by the license resulting from any improvements of the same made or effected by the licensee, not exceeding, however, the reconstruction cost, less the deductions hereinafter provided.¹⁸ If the amount involved does not exceed the indebtedness which may be lawfully incurred for such purpose without an appropriation, such agreement may provide for the payment thereof before an appropriation is made.

In the event that the licensee and the commission are unable to agree upon the amount of damages payable to the licensee as above provided, and the same does not exceed the indebtedness which may be lawfully incurred, for such purpose without an appropriation being made therefor, the licensee may recover of the state in the court of claims the amount of enhanced value, if any, of the licensed property owned by the state, resulting from any and all existing improvements of the same made or effected by the licensee, not exceeding, however, the reconstruction cost,¹⁹ less a deduction equal to that portion, if any, of the aggregate income from the project, over and above actual and reasonable expenses of operation, including repairs, which shall exceed an amount equal to eight per centum per annum, to the time that the state property is taken over by the state, of the actual and reasonable cost to the licensee of the lands and interests in lands, the actual and reasonable cost to the licensee of the ways, means

¹⁸ Words "less the deductions hereinafter provided," new.

¹⁹ Remainder of sentence new.

and works and the allowance made for organization and development expenses. If the amount of damages shall exceed the amount of such lawful indebtedness, the revocation shall not take effect until an adequate appropriation has been made therefor and in such case damages may be in like manner recovered in the court of claims.

§ 631, as
added by
L. 1921,
ch. 579,
amended.

§ 17. Section six hundred and thirty-one of such chapter, as added by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 631. Re-entry at the expiration of the license period.

1. Upon the expiration of the original license period any and all interest of the licensee in and to state property which is covered by the license, together with any and all works and structures thereon, shall vest in and become the property of the state free and clear of any and all liens and encumbrances provided, however, that the commission may at the time the license is granted, or at any later time during its continuance, enter into an agreement with the licensee that an allowance will be made to the licensee for and on account of improvements to property of the state, or improvements the value of which is dependent on the use of state property, for which in view of the rent paid the licensee shall not have been compensated by the privilege of the license, but such agreement must be made before improvement for which such allowance is to be made is undertaken. If the amount of such allowance exceed the amount of indebtedness, which may be lawfully incurred for such purposes without an appropriation, the time when such property is vested in the state shall be postponed until an adequate appropriation is made therefor. The allowance so made or to be made may be by way of an extension of the license pursuant to an agreement between the commission and the licensee.

2.²⁰ Any agreement with the licensee for an allowance on account of improvements to property of the state or improvements the value of which is dependent on the use of state property, shall not provide for an allowance in excess of the reconstruction cost, less a deduction equal to that portion, if any, of the aggregate income from the project, over and above actual and reasonable expenses of operation, including repairs, which shall exceed an amount equal to eight per centum per annum, to the time that the state property is taken over by the state, of the actual and reasonable cost to the licensee of the lands and interests in lands, the actual and reasonable cost to the licensee of the ways, means and works and the allowances made for organization and development expenses.

§ 635
amended.

§ 18. Section six hundred and thirty-five²¹ of said chapter is hereby amended to read as follows:

§ 635. **Service of notice, order or direction.** Whenever this article provides for or authorizes the service of a notice, order or

²⁰ Subd. 2 new.

²¹ As added by L. 1921, ch. 579.

direction upon a licensee or applicant for a license, or upon any other person,²² and does not provide for the manner of service, and no different time is provided,²³ such service may be made either personally or in the manner provided by law for the service of a summons or by mailing a copy of the same in a postpaid wrapper addressed to the licensee or applicant, or any other person,²⁴ at the address given in the application or as subsequently communicated to the commission in writing, or at the project works. Such service may be made upon a municipal corporation either personally as above provided or by mailing a copy of the same in like manner addressed to the mayor of the city, the president of the village or the supervisor of the town. ²⁵ Service upon unknown owners shall be made by publication in the manner provided by law for service of a summons upon unknown parties.

§ 19. Said chapter is hereby amended by inserting after section six hundred and thirty-five, a new section six hundred and thirty-five-a, to read as follows: § 635a
added.

§ 635-a. **Review by certiorari.** Any person, affected by an order or direction made pursuant to this chapter, may review such order or direction by certiorari upon notice to the attorney-general of the state or the attorney-general may cause the same to be reviewed, provided that application for such writ is made within sixty days from the date of the service of such order or direction upon said person or public or private corporation. No such review shall be granted on the application of a person or public or private corporation other than the state unless such person or public or private corporation shall give an undertaking to be approved by the court or a justice thereof as to form, amount and sufficiency of sureties; that in the event of failure to reverse or modify said order or direction, he or it will pay to the commission all such costs and expenses as are incurred by it on account of the proceeding as shall be determined by the court.

§ 20. Such chapter is hereby amended by inserting therein, at the end of article ten-a, a new section, to be section six hundred and thirty-seven, to read as follows: § 637
added.

§ 637. **Previous grantees not to divert waters without license.** A person or corporation, other than a municipal corporation, claiming or purporting to have, or to have had, by general or special act or other grant from the state, the right to divert water from Lake Erie, Niagara river or the boundary waters of the state, or to divert any waters in which the state has a proprietary interest, or the successor in interest of such a corporation, if there has not been and is not now an actual diversion of waters and development of power therewith pursuant to such act or grant, may apply for a license under this article to divert such waters, and shall not divert such waters without having obtained such license, and shall otherwise be subject to the provisions of

²² Words "or upon any other person" new.

²³ Words "and no different time is provided" new.

²⁴ Words "or any other person" new.

²⁵ Following sentence new.

this article. Corporations to which this section applies include among others corporations created by the following acts, and their successors in interest: chapter two hundred and fifty-nine of the laws of eighteen hundred and ninety-one; chapter seven hundred and seven of the laws of eighteen hundred and ninety-three; chapter seven hundred and twenty-two of the laws of eighteen hundred and ninety-four; and chapter five hundred and thirty-nine of the laws of nineteen hundred and two; and all acts amendatory thereof and supplemental thereto.

L. 1921,
ch. 579,
§ 4
amended.

§ 21. Section four of chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, entitled "An act to amend the conservation law, in relation to licensing the use of water for power and other purposes, and to providing for the exercise of the power of eminent domain, in relation to the production, sale and distribution of heat, light and power to the public, and making an appropriation for expenses," is hereby amended to read as follows:

§ 4. **Saving clause.** Nothing in this act shall be construed to affect ²⁶ any right of eminent domain under existing laws, or to subject to the power of eminent domain any property owned, used or possessed by any municipal corporation without the consent of the legislative body of such municipal corporation,²⁷ or to impair any existing right of diversion and use of waters lawfully acquired by grant or otherwise or to repeal or affect chapter two of the laws of nineteen hundred and twenty,²⁸ excepting as provided in sections six hundred and twenty-one and six hundred and thirty-seven hereof; or to impair any right of diversion of water or waters lawfully acquired for the purpose of a municipal water supply. The provisions of this article shall not apply to lands or property used for storage reservoirs constructed under and pursuant to article seven-a of the conservation law.

§ 22. This act shall take effect immediately.

CHAPTER 243

AN ACT to amend the conservation law, being chapter two hundred and thirty-three of the laws of nineteen hundred and thirteen, in relation to water supply to provide for union water districts and conservation water works in the county of Westchester.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
647, § 530,
as added by
L. 1912,
ch. 233,
amended.

Section 1. Section five hundred and thirty of article nine-a of chapter two hundred and thirty-three of the laws of nineteen

* So in original. [Letter "t" omitted.]

²⁶ Word "affect" substituted for word "impair."

²⁷ Words "or to subject . . . municipal corporation," new.

²⁸ Remainder of section new.

hundred and thirteen, entitled "An act to amend the conservation law in respect to water supply to provide for union water districts and conservation water works," is hereby amended so as to read as follows:

§ 530. **Union water districts: formation.** Any number of municipalities, including water districts, within contiguous counties may join in the formation of a union water district, and three or more such municipalities may meet and confer for that purpose. The subject for consideration at any such meeting shall be the proposition that the municipalities thus conferring shall join in the formation of a ¹water district. Municipalities not represented at the first meeting may participate in adjourned meetings and each municipality represented at any such meeting shall have one vote, which shall be cast by the chief executive officer thereof. The officers so attending shall choose a chairman, who shall preside over the meeting, and a clerk whose duties it shall be to keep minutes of the proceedings. Whenever ten or more municipalities so attending shall vote in the affirmative on said proposition, those so voting shall thereupon become a union water district, except that if less than ten municipalities shall vote in the affirmative, they shall become a union water district provided they shall have a combined population of at least twenty-five thousand inhabitants, according to the last preceding federal census or state enumeration, and the census or enumeration last taken shall control, ²and except that if less than ten municipalities, all situated in the county of Westchester, shall vote in the affirmative, they shall become a union water district provided they shall have a combined population of at least ten thousand inhabitants, according to the last preceding federal census or state enumeration, and the census or enumeration last taken shall control. Whenever such meeting shall result in the formation of a union water district, a report in writing of such meeting shall be made and subscribed by the chairman and the clerk of the meeting, and such report shall set forth the attendance at such meeting, the vote taken and the name adopted for such district, which shall consist of one word to precede the words "union water district," and shall not be a name previously adopted by any other such district, and the same shall, within five days after such meeting, be filed in the office of the clerk of each county wherein any municipality becoming a member of such union water district shall be situated.

There shall be a board, to be known as the trustees of such union water district, consisting of the chief executive officer of each municipality becoming a member thereof. A majority of all the members of such board of trustees shall constitute a quorum for the transaction of business, and they shall choose one of their number chairman, whose duty it shall be to preside at meetings of the board, and they shall choose a clerk, whose duty it shall be to keep the record of its proceedings. Within ten days

¹ Word "union" omitted.

² Remainder of sentence new.

after the filing of such a report in the offices of the county clerks, the said trustees shall meet and each shall take and file with the said clerk the constitutional oath of office.

The said board of trustees shall have power and it shall be their duty to adopt by-laws and rules to govern the conduct of its business. Meetings, in addition to any meetings otherwise provided for in this article, may be called by at least three trustees who shall file said call with the clerk, and it shall be the duty of the clerk to give written notice of such meeting by mail to each member at least two days prior to the time fixed therefor, stating in such notice the time and place of the meeting. All meetings shall be held at a convenient place within one of said municipalities.³

CHAPTER 244

AN ACT to authorize the appointment of a commission to recommend forms of government for Nassau county.¹

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Appoint-
ment of
commis-
sion au-
thorized;
duties.

Section 1. The board of supervisors of the county of Nassau shall have the power to appoint a commission of tax payers of such county, not exceeding seventeen in number, who shall serve without compensation, to examine the different laws of the state applicable to the government of the county, towns and other municipalities and political subdivisions in such county, and to determine the advisability of changing the forms or methods of government of such county, towns or other political subdivisions; to examine the form of government of other counties or cities within or without the state of New York, and the method used in the administrative, judicial, economic and other branches of such municipalities, for the purpose of recommending an improvement in the government of such county and its political subdivisions, and from such examinations and investigations to determine what form of government is best suited to meet the needs of the residents of Nassau county, and to report its findings and recommendations with all convenient speed to the board of supervisors of the county of Nassau.

Report.

Employees.

§ 2. Such commission shall have power by majority vote to employ necessary experts, clerks and assistants and to fix their salaries and compensation, subject, however, to the approval of the board of supervisors.

Appropri-
ation for
salaries
and
expenses.

§ 3. The board of supervisors of Nassau county are hereby authorized and empowered to appropriate from time to time sums

² "Every law, unless a different time shall be prescribed therein, shall take effect on the twentieth day after it shall have become a law."—Legislative law (L. 1909, ch. 37), § 43.

³ See constitution, art. 3, §§ 26, 27, as amended 1921.

sufficient to pay the salaries or compensation of such experts, clerks and assistants as may be employed by such commission, and to pay such other expenses as may be necessarily incurred by such commission, and to cause the sums thus paid to be included in the annual tax levy of such county and added to the tax roll for the succeeding year.

§ 4. The county treasurer of Nassau county shall from time to time pay out of the moneys appropriated for the purposes of such commission such salaries and expenses, not exceeding, however, the amount of money approved by the board of supervisors for the purposes and uses of such commission; such moneys shall be paid out on the requisition of the chairman of such commission in the same manner as other county expenses.

Moneys appropriated, how paid.

§ 5. This act shall take effect immediately.

CHAPTER 245

AN ACT to amend the public health law, relative to the practice of optometry.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," is hereby amended to read as follows:¹

L. 1909, ch. 49, § 304 amended.

§ 300. **Definition; application of article.** A person practices optometry within the meaning of this article who by any means or methods, other than by the use of drugs, diagnoses any optical deficiency or deformity, visual or muscular anomaly of the human eye, or prescribes lenses, prisms or ocular exercises for the correction or relief of the same, or who holds himself out as being able so to do.

§ 2. Section three hundred and three² of such chapter is hereby amended to read as follows:¹

§ 303 amended.

§ 303. **Examinations; certificates of practitioners.** Every person desiring to commence or to continue the practice of optometry after January first, nineteen hundred and nine, except as hereinafter provided, upon presentation of satisfactory evidence, verified by oath, that he is more than twenty-one years of age, of good moral character, has a preliminary education equivalent to at least two years in a registered high school, and after January first, nineteen hundred and twenty, has graduated from a high school having a four year course and registered by the board of regents as maintaining a satisfactory standing, or an education accepted by the regents as a full equivalent, and after

¹ Section materially amended.

² As amended by L. 1909, ch. 134; L. 1917, ch. 176.

receiving such preliminary education has prior to January first, nineteen hundred and thirty, graduated from a school of optometry having a course of not less than two years and maintaining a standard satisfactory to the board of regents, and after January first, nineteen hundred and thirty, has graduated from a school of optometry conducted as a department of a university registered by the board of regents with either the degree of bachelor of arts or that of bachelor of science and a certificate of graduation in optometry, shall take an examination before the board of examiners to determine his qualifications. Every candidate successfully passing such examination shall be registered by the board of regents as possessing the qualifications required by this article and shall receive from said board of regents a certificate thereof.

Applicants nineteen years of age certified as having satisfactorily completed the first two years of a four year course of optometry in an optometry school registered as maintaining at the time a satisfactory standard, may be admitted conditionally to the examination in such subjects as are prescribed to be complete with such two years.

Any person who shall submit to said board of examiners satisfactory proof as to his character, competency, and qualifications, and that he has been continuously engaged in the practice of optometry in this state for more than two years next prior to the time that chapter four hundred and sixty of the laws of nineteen hundred and eight took effect, may upon the recommendation of said board of examiners receive from the board of regents a certificate of exemption from such examination, which certificate shall be registered and entitle him to practice optometry under this article. Every person who was, on the twenty-first day of May, nineteen hundred and eight, when section two hundred and nine-b of the public health law, as then known, took effect, entitled to a certificate of exemption as therein provided, but who failed or neglected to make application therefor and present evidence to entitle him thereto, on or before January first, nineteen hundred and nine, as provided by said section, must make such application and present such evidence on or before July first, nineteen hundred and nine, or he shall be deemed to have waived his right to such certificate. If any person whose registration is not legal or who is not registered because of some error, misunderstanding or unintentional omission, shall submit to the state board of examiners in optometry, or to the regents of the university of the state of New York, satisfactory proof that he had all the requirements prescribed by law at the time required for registration and was entitled to be legally registered, he may, on unanimous recommendation of the state board of examiners in optometry, or by action of the board of regents, receive from the regents under seal a certificate of the facts which may be registered by any county clerk and shall make valid the previous imperfect registration and such certificate shall include the date on which such person could or should have reg-

istered, and his registration shall be deemed to have been valid and corrected from that date. Before any certificate is issued it shall be numbered and recorded in a book kept in the regents' office and its number shall be noted upon the certificate. A photograph of the person registered shall be filed with the record and a duplicate thereof affixed to the certificate. In all legal proceedings the record and photograph so kept in the regents' office or certified copies thereof shall be prima facie evidence of the facts therein stated.

For the purpose of changing the status of an optometrist licensed by exemption to that of one licensed by examination, the regents may in their discretion admit to examination any optometrist duly licensed by exemption, who in lieu of the preliminary and professional requirements prescribed, presents satisfactory evidence that he has continuously and in conformity to law practiced optometry in the state of New York for a period of not less than ten years.

No person shall be deemed eligible to make application for a certificate of exemption or a certificate of fact after January first, nineteen hundred and twenty-three.

Upon the recommendation of the board, the regents may also without the examination herein provided, endorse a certificate to practice optometry in any other state or country granted after examination by a legally constituted board of examiners in optometry upon payment of the statutory fee by the applicant and provided that his preliminary and professional education shall have been not less than those required by this state, and provided that he shall have been in reputable practice continuously for not less than five years immediately next preceding his application.

§ 3. Such chapter is hereby amended by inserting therein a new section, to be section three hundred and three-a, to read as follows: § 303a
added.

§ 303-a. **Degrees.** No degrees in optometry shall be conferred in this state except the degrees of doctor of optometry (Opt. D.) or doctor of optical science (D.O.S.).

The doctor of optometry and doctor of optical science degrees shall not be conferred upon any person who has not received either a bachelor of arts degree or a bachelor of science degree accompanied in either case with a certificate of graduation in optometry, and who has not thereafter completed a course of two years graduate study of the subject of optics and optometry.

Nothing in this article shall affect the standing of any degrees in optometry conferred prior to the amendment of this act.

§ 4. This act shall take effect immediately.

CHAPTER 246

AN ACT to amend chapter one hundred and sixty-three of the laws of nineteen hundred and twenty-one, entitled "An act in relation to the fees in the surrogate's court of the county of New York, and repealing certain sections of chapter five hundred and thirty of the laws of eighteen hundred and eighty-four, entitled 'An act in relation to the office of surrogate of the county of New York,'" in relation to proceedings instituted by the state tax commission.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1921, ch.
163, § 1,
subd. 18
amended.

Section 1. Subdivision eighteen of section one of chapter one hundred and sixty-three of the laws of nineteen hundred and twenty-one, entitled "An act in relation to the fees in the surrogate's court of the county of New York, and repealing certain sections of chapter five hundred and thirty of the laws of eighteen hundred and eighty-four, entitled 'An act in relation to the office of surrogate of the county of New York,'" is hereby amended to read as follows:

Fees to be
charged.

18. In any case where the gross estate is shown by affidavit not to exceed the sum of one thousand dollars, no fees shall be charged except for certificates, certified copies of papers, recording instruments other than wills, subpoenas, and the expenses provided by subdivision seventeen hereof.

On the appointment of a guardian, if it appears that the application is made for the purpose of enabling a minor to receive bounty, arrears of pay or prize money, or pension due, or other dues or gratuity from the federal or state government, for the services of the parents or brother of such minor in the military or naval service of the United States, no fee shall be charged or received. ¹ In any proceeding instituted by the state tax commission no fee shall be charged or received from said commission.

§ 2. This act shall take effect immediately.

CHAPTER 247

AN ACT to amend the state boards and commissions law, in relation to the title of such law and in relation to the state fair commission.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Art. 1
added to
L. 1909,
ch. 58.

Section 1. Chapter fifty-six of the laws of nineteen hundred and nine, entitled "An act in relation to state boards and commissions, constituting chapter fifty-four of the consolidated laws,"

¹ Following sentence new.

is hereby amended by inserting therein a new article, to be article one and to replace article one of such chapter inadvertently repealed by chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, and to read as follows:

ARTICLE 1.

SHORT TITLE.

Section 1. Short title.

§ 1. **Short title.** This chapter shall be known as the "state boards and commissions law."

§ 2. Such chapter is hereby further amended by inserting after article one thereof a new article, to be article two and to replace article two of such chapter, which was repealed by chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, and to read as follows: Art. 2
added.

ARTICLE 2.

STATE FAIR COMMISSION.

Section 5. Property in town of Geddes, Onondaga county, New York.

6. State fair commission.
7. State fair.
8. Assistants and employees.
9. Receipts and disbursements.
10. Acquisition of additional real property.
11. Notice of intention to take.
12. Appointment of commissioners of appraisalment.
13. Oath of appraisalment; notice of meeting.
14. Duties of appraisers; report.
15. Notice of application to confirm report.
16. Order to be recorded.
17. Appeal.
18. Payment of award.

§ 5. **Property in town of Geddes, Onondaga county, New York.** The conveyance to the state by the New York state agricultural society of its property in the town of Geddes, Onondaga county, New York, by deed dated July twenty-eighth, eighteen hundred and ninety-nine, and recorded in the office of the comptroller, is hereby accepted, ratified and confirmed. Such property and any other property hereafter acquired by the state for state fair purposes shall be under the management and control of the state fair commission as hereinafter provided, and it may, from time to time, make rules and provide for the care, preservation and improvement thereof.

§ 6. **State fair commission.** The state fair commission shall consist of seven members, of whom the president of the senate and the commissioner of farms and markets shall ex officio constitute two. The remaining five members of such commission

shall be appointed by the governor, by and with the advice and consent of the senate. The five appointive members of such commission in office when this section as hereby amended takes effect shall hold office until the expiration of their respective terms. A successor to a member of such commission shall be appointed annually for a full term of five years. The president of the senate shall be the presiding officer of the commission. The appointed members of the commission shall receive an annual salary of two thousand dollars, and all the members of such commission shall receive their actual and necessary expenses in the discharge of their official duties, to be paid on the certificate of the commissioner of farms and markets and the audit and warrant of the comptroller.

§ 7. **State fair.** It shall be the duty of the said commission to hold a state fair at such times as it may deem proper, except that said state fair shall not be held on the first Monday in September, known as Labor day, and between January first and February fifteenth in each calendar year to publish the time of holding said fair in such year. It shall not be lawful for any corporation, association or individual to hold or conduct any trotting or pacing race or races during the week in which the state fair is held, except upon half-mile tracks, and except at the fairs held by agricultural societies which have received moneys from the state, and no corporation, association or individual holding such races during said week shall be entitled to any of the benefits conferred by article twenty of the membership corporations law, or by any general or special law. Such commission may make, alter, suspend or repeal needed rules relating to such fair, including the times and duration thereof, the terms and conditions of entries and admissions, exhibits, sale of privileges, payments of premiums, and any other matters which it may deem proper in connection with such fair. It shall furnish to each person who, on the seventeenth day of January, nineteen hundred, was a life member of the state agricultural society, a free admission to the fair ground during the fair of each year during the life of such member.

§ 8. **Assistants and employees.** The state fair commission may appoint such assistants and employees as it may deem necessary. It may prescribe their duties and fix their compensation. Such assistants and employees shall be subject to removal at the pleasure of such commission.

§ 9. **Receipts and disbursements.** The commission shall receive all moneys payable to the state on account of said fair, and make all disbursements therefrom and also from any appropriation made for that purpose by the legislature as may be needed, from time to time, in carrying on the work of the commission. The provisions of section thirty-seven of the state finance law requiring that money received for or on behalf of the state shall be paid monthly into the state treasury shall not apply to the state fair commission, and such commission may pay from the race and other entry fees, gate admissions and other receipts of such

fair such expenses as shall be necessary for the proper conduct of the fair and the purposes of the commission. On or before the first day of January of each year the commission shall pay to the state treasurer any balance remaining in its hands received in connection with the state fair, and at the same time file with the comptroller an itemized verified report showing all receipts and disbursements for state fair purposes since the last report, together with the vouchers therefor approved by said commission.

§ 10. **Acquisition of additional real property.** The state fair commission may acquire additional real property for state fair purposes whenever money shall be appropriated by the legislature therefor. Such commission shall cause a map to be made of the real property which it shall determine to take, showing the boundaries thereof and the name of the owner or reputed owner thereof as nearly as the same can be ascertained, and shall file such map, certified by the commission, in the office of the secretary of state and of the county clerk of the county in which such real property is located. From the time of the filing of such map the property therein specified shall become and be the property of the state of New York and shall be applicable to state fair purposes as provided by this article.

§ 11. **Notice of intention to take.** Within ten days after filing such map the state fair commission shall cause to be published once in each week for three successive weeks, in two newspapers published in the county in which such real property is located, a notice that such map has been so filed and that the state fair commission intends to take and appropriate real property shown on such map and described in such notice, and acquire title thereto and hold the same in trust for the people of the state of New York, and that such commission intends to apply to the supreme court in the judicial district in which such real property is located, not more than thirty days after the first publication of such notice, for the appointment of three freeholders, residents of the state of New York, to act as commissioners of appraisal, to ascertain and report the just compensation to be paid to the persons or corporations owning or having an interest in such real property.

§ 12. **Appointment of commissioners of appraisal.** On the day designated in such notice or some other day to be named by the court, such court shall hear the application of the state fair commission, and shall appoint three disinterested persons, freeholders and residents of the state of New York, commissioners of appraisal. If any commissioner of appraisal shall decline to serve the court may, on application of the state fair commission, upon notice of such vacancy and application to be published at least once in a newspaper in the county in which the real property so to be taken and acquired is situated, appoint another in his place.

§ 13. **Oath of appraisalment; notice of meeting.** The commissioners of appraisalment so appointed shall, before they enter upon their duties, take the constitutional oath of office. They

shall cause to be published once in each week for at least two successive weeks in a newspaper printed and published in the county in which the real property to be appraised is situated, a notice of their appointment, containing a brief description of the purposes for which they have been appointed, and requiring all persons and parties interested in the real property so taken, and having any claim or demand on account thereof to present the same to them duly verified, with such affidavit or other proof as the owner or claimant may desire, within twenty days after the date of the first publication of such notice, and stating a time and place after the expiration of such days when such parties and persons shall be heard in relation thereto by such commissioners of appraisement. At the time and place fixed for such notice or at any such further or other times and places as such commissioners may appoint, such commissioners shall hear such owners and examine the proof of such claimant or claimants, or such additional proof and allegations as may then be offered by such owners or on behalf of the state fair commission. They shall give notice of the time and place of their meeting to view such real property, hereinafter provided for, by publishing the same in a newspaper printed and published in the county in which the real property so taken is situated.

§ 14. **Duties of appraisers; report.** The commissioners of appraisement shall together view such property and shall receive any legal evidence as to the compensation that shall be made therefor, and may adjourn from time to time. They shall ascertain and award to the owner or to the respective owners of the property to be taken, and to all persons and corporations interested therein, such compensation therefor as in their opinion shall be just and proper and in fixing the amount of such compensation such commissioners shall not make any allowance or deductions on account of benefits. The report of the commissioners of appraisement, signed by a majority of such commissioners, shall be filed in the office of the clerk of the county in which the real property taken is situated, as soon as completed, and such report shall be made and filed within three months from the time of their appointment. Their oaths of qualifications and their minutes of testimony taken by them, if any, shall be attached to and filed with such report and form a part thereof.

§ 15. **Notice of application to confirm report.** After the report of such commissioners of appraisement shall be so filed the state fair commission shall give notice by publishing the same once in each week for two successive weeks in a newspaper printed and published in the county in which the real property taken is situated, that they will on a day to be specified in such notice apply to the supreme court for an order confirming the report, and on the day so appointed such court, upon proof of the due publication of such notice, shall confirm such report and make an order containing a recital of the substance of the proceedings in the matter of the appraisement and a description of the real property appraised for which compensation is to be

made, and the amount of compensation to be made in each case, and shall also direct to whom the money is to be paid. Such court shall also tax and allow such costs, fees and expenses to the commissioners of appraisement and other persons performing any legal duties in the premises as it shall think equitable and right, which shall be paid by the state fair commission.

§ 16. **Order to be recorded.** A certified copy of the order so to be made shall be recorded at full length in the office of the clerk of the county in which the real property taken is situated, and also in the office of the secretary of state.

§ 17. **Appeal.** Within twenty days after the confirmation of the report of the commissioners of appraisement, any party may appeal on giving notice in writing to the other by petition to the appellate division of the supreme court of the judicial department in which the real property taken is situated, from the appraisal and report of the commissioners. Such appeal shall be heard by such appellate division at the next thereafter ensuing term thereof on due notice thereof being given according to the rules and practice of such court. On the hearing of such appeal the court may direct a new appraisement before the same or new commissioners to be appointed by it, in its discretion. If the court shall order a new appraisement the appraisers appointed to make the same shall qualify and proceed in all respects as provided in this article, and such second appraisement shall be final and conclusive upon both parties.

§ 18. **Payment of award.** The amounts awarded by such commissioners shall be paid by the treasurer on the warrant of the comptroller upon the order of the state fair commission, out of moneys appropriated for the acquisition of such real property. If there be conflicting claimants, or if the person entitled to receive money so awarded cannot be ascertained, or is absent from the state, or under any legal incapacity that disqualifies him from receiving legal payment of the moneys so awarded, then the amount awarded on account of the right, title or interest of any such person may, on order of the state fair commission, be paid to the treasurer of the county in which the real property taken is situated, who shall receive the same and pay over the same as he may be ordered by the supreme court, which upon application thereto shall determine who is entitled to the same, and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts upon which such determination and order are to be made. Any payment to such treasurer shall be equivalent to payment to the parties entitled thereto, as if payment had been made directly to the party entitled thereto and shall release the state fair commission and the state of New York from all claim therefor.

§ 3. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 248

AN ACT to amend the code of criminal procedure, in relation to jurisdiction of courts of special sessions.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 56,
subd. 35
amended.

Section 1. Subdivision thirty-five of section fifty-six of the code of criminal procedure is hereby amended to read as follows:

35. All violations of the provisions of the agricultural, poor, general business and labor laws.¹

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 249

AN ACT to extend the powers of the convention representing the judiciary and the bar to consider and adopt rules of civil practice.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The convention representing the judiciary and the bar to consider and adopt rules of civil practice, created by chapter nine hundred and two of the laws of nineteen hundred and twenty and continued by chapter three hundred and seventy of the laws of nineteen hundred and twenty-one, is hereby continued with all the powers and subject to all the responsibilities conferred and imposed by such acts, except that it shall be charged with the duty of further examining the amendments to the civil practice acts and particularly those enacted during the current year by the legislature, for the purpose of adopting amendments and additions to the rules of civil practice and which amendments and additions it shall cause to be filed in the office of the secretary of state on or before the first day of January, nineteen hundred and twenty-three, and shall have the same force and effect as the rules heretofore adopted and filed by said convention pursuant to such laws. Such convention shall meet at a time and place appointed by the chairman thereof.

§ 2. This act shall take effect immediately.

¹Inclusion of labor law new.

CHAPTER 250

AN ACT to amend the civil practice act, in relation to personal service of the summons without the state without an order.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and thirty-five of the civil practice act, is hereby amended to read as follows: § 235 amended.

§ 235. **Personal service out of the state without order.** Where the complaint demands judgment that the defendant be excluded from a vested or contingent interest in or lien upon specific real or personal property within the state or that such an interest or lien in favor of either party be enforced, regulated, defined or limited, or otherwise affecting the title to such property, the summons may be served without an order, upon a defendant without the state in the same manner as if such service were made within the state, except that a copy of the complaint shall be annexed to and served with the summons,¹ and that such service must be made by a person or officer authorized under section two hundred and thirty-three to make service without the state in lieu of publication.

§ 2. This act shall take effect immediately.

CHAPTER 251

AN ACT to amend the court of claims act, in relation to fees of court stenographers for making copies of minutes and testimony.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eight^{1a} of the court of claims act is hereby amended to read as follows: § 8, subd. 2 amended.

2. The court stenographers, who shall also be deputy clerks, three thousand six hundred dollars and ten cents² a folio for copies of minutes and testimony furnished at the request of and paid for by³ the claimant.

§ 2. This act shall take effect immediately.

¹ Remainder of section new.

^{1a} As amended by L. 1921, ch. 474.

² Formerly "five cents."

³ Words "and paid for by" new.

CHAPTER 252

AN ACT to amend the conservation law, in relation to fishing near eel weirs.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch. 647, § 256, as added by L. 1912, ch. 318, and amended by L. 1920, ch. 109, amended.

Section 1. Section two hundred and fifty-six of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter one hundred and nine of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 256. **Eel weirs and eel pots.** Eel weirs and eel pots of such form as may be prescribed by the commission may be used at any time for taking eels, provided a license for so doing shall first be obtained from the commission. Eel weirs shall not be used in waters inhabited by trout, but may be used on the New York state side of that portion of the Delaware river lying between the state of New York and the state of Pennsylvania.¹ Fish shall not be taken within fifty rods of any licensed eel weir except by angling. This section shall not apply to waters of the marine district.

§ 2. This act shall take effect immediately.

CHAPTER 253

AN ACT to amend the county law, in relation to trusts for maintenance of cemetery lots and appurtenances.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 16, § 152 amended.

Section 1. Section one hundred and fifty-two of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows:²

§ 152. **County treasurer as trustee of cemetery lots.** Any person, persons or corporation owning or interested in a lot or lots in any cemetery in this state may create a trust in perpetuity for the maintenance of such cemetery lot or lots, the preservation of a building, structure, fence or walk in such cemetery, the re-

¹ Following sentence new.

² Section materially amended.

newal or preservation of a tomb, monument, stone, fence, railing or other erection or structure on or around any of such lots, or the planting or cultivation of trees, shrubs, flowers or plants in or about the same, or for any of such purposes, by transferring, conveying, devising or bequeathing to the county treasurer of the county in which such cemetery is located, or if such cemetery is located in a county wholly within a city, to the chamberlain of such city, real or personal property, and designating such county treasurer or chamberlain as trustee in the instrument creating such trust. Such instrument may direct that the income derived from such property shall be applied to one or more of the purposes specified in this section. A county treasurer or city chamberlain designated as trustee in pursuance of this section, must accept the property so transferred and shall cause the same to be invested in accordance with the terms of the trust, if any are prescribed, and otherwise shall invest and reinvest such property in securities in which savings banks are authorized to invest. The income derived from such property shall be collected by the county treasurer or chamberlain who shall be entitled to receive and deduct five per centum of such income for administering the trust. The balance of such income shall be paid by the county treasurer or chamberlain to the treasurer of the association or corporation owning or conducting such cemetery, and such association or corporation shall accept the same and apply the money so received, so far as the same may be applicable, in furtherance of the purposes for which such trust was created. In case the cemetery association should become extinct, then it shall be the duty of the supervisor of the town in which the cemetery is located, or the president of the village or mayor of the city, if it is located in a village or city, respectively, to receive the income from such trust and expend it for the purposes provided for in the instrument creating the trust.

§ 2. This act shall take effect immediately.

CHAPTER 254

AN ACT to amend the county law, in relation to boards of supervisors and their duties and powers.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision thirty-five of section twelve of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," as added by chapter three hundred and twenty-four of the laws of nineteen hundred and fourteen and thus renumbered by chapter one hundred and six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1909,
ch. 16, § 12,
subd. 35, as
added by
L. 1914,
ch. 324, and
renumbered
by L. 1917,
ch. 106,
amended.

Appoint-
ment and
duties of
county
govern-
ment com-
mis-
sion.

Employees;
supplies.

Rooms;
expenses.

35. The board of supervisors of a county adjoining a city of the first class, except the county of Nassau,¹ shall have the power to appoint a commission of taxpayers, of said county, not exceeding seven in number, who shall serve without compensation, to examine the question of the application of the different laws of the state as applicable to the method of government of the county, its population, needs and the advisability of changing the forms or methods of government of the county and its several localities; to investigate the form of government of other counties or cities, within and without the state of New York, the method used in the administrative, judicial and economic branches of the different municipalities investigated, for the purpose of recommending an improvement in the government and welfare of the people of the county, and to report its investigation, findings and recommendations with all convenient speed to the board of supervisors. Such commission of taxpayers shall have the power to employ counsel, to appoint such assistant or assistants, including one or more stenographers as the commission may require to aid in such investigation, to fix the salaries of such counsel, assistants and stenographers, to purchase the necessary stationery and equipment. The board of supervisors shall provide rooms for the commission to hold its meetings, and raise and provide the money by taxation or otherwise to pay all expenses necessarily incurred during the investigation by such commission and such counsel, assistants and stenographers as may be employed by said commission. ² In the county of Westchester such commission shall have power to add to its number not exceeding twenty-five additional members.

§ 2. This act shall take effect immediately.

CHAPTER 255

AN ACT to amend the farms and markets law, in relation to diseases of domestic animals.³

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922,
ch. 48. § 78
amended.

Section 1. Section seventy-eight of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

§ 78. **Examination of cattle.** The commissioner may cause a physical examination to be made by competent veterinarians of dairy cows whose milk is marketed in liquid form or manufactured into butter, cheese or other food for human consumption.

¹ Words "except in the county of Nassau" new.

² Following sentence new.

³ The amendments effected by this act are so numerous that it is impracticable to indicate the changes made.

Such physical examinations may be made as frequently as available funds appropriated will permit, and as the conditions necessitate. An examination made by any qualified and approved examiner may be accepted by the commissioner. If, from such examination, an animal be deemed by the commissioner to be infected with tuberculosis or any infectious or communicable disease or its condition be such as to render it undesirable for the production of milk or a menace to the health of other animals or persons, such animal shall be immediately removed from the herd, slaughtered or disposed of as the commissioner may prescribe.

§ 2. Subdivisions four and five of section seventy-nine of such chapter are hereby amended to read, respectively, as follows: § 79, subds. 4, 5 amended.

4. Subject to the rules of the commissioner, an animal found to be diseased after such examination may continue to be used for breeding purposes, but the milk from such animal shall not be used for any purpose until pasteurized at such temperature and for such period as the commissioner may prescribe.

5. The young of any such diseased animal shall immediately be separated from its mother and shall not be permitted to receive or be fed the milk from such affected animal until such milk has been pasteurized as provided in subdivision four of this section.

§ 3. Section eighty-one of such chapter is hereby amended to read as follows: § 81 amended.

§ 81. **Sale of animals affected with tuberculosis.** No animal showing physical evidence of tuberculosis or in which such disease shall have been indicated as a result of the tuberculin, or other approved test, shall be sold other than for immediate slaughter under the supervision of a veterinarian approved by the commissioner, except under a written contract approved by the commissioner, signed by both parties, describing the animal and stating that it is believed to be tuberculous. No such animal shall be removed except for immediate slaughter under the supervision of a veterinarian approved by the commissioner, from the premises where examined except upon the written permission of the commissioner. A contract of sale as provided by this section shall be executed in triplicate and one copy thereof delivered to the purchaser, one kept by the seller, and the other delivered to the commissioner.

§ 4. Subdivisions one and six of section eighty-eight of such chapter are hereby amended to read, respectively, as follows: § 88, subds 1, 6 amended, Value of animals.

1. The value of an animal shall be taken to be the appraised value thereof except that for the purposes of subdivisions two, three, four and five of this section such value shall in no case exceed the sum of one hundred and twenty-five dollars for a registered purebred bovine animal or for a purebred bovine animal eligible to registry for which application has been duly and properly made for registration prior to the appraisal, and for any other bovine animal shall not exceed the sum of seventy-five dollars nor shall it exceed one hundred and twenty-five dollars for any equine animal.

Carcasses.

6. The commissioner is hereby authorized to make rules in reference to the official inspection of the carcasses of animals so killed, and to provide for the suitable marking or branding of carcasses passed or condemned. The commissioner may make such rules as he deems necessary or expedient for the proper disposal of carcasses or parts thereof. The carcass and all parts of the animal, or the net proceeds of the sale thereof, shall be and remain the property of the owner of the slaughtered animal in addition to the indemnity provided herein, provided, however, that the total amount received by the owner of the animal from the proceeds of the sale and the indemnity by the state shall not exceed the appraised value of the animal. If the proceeds of such sale and such indemnity do exceed the appraised value of the animal, then the indemnity paid by the state shall only equal the difference between such proceeds and the appraised value of such animal.

In effect
April 1,
1922.

§ 5. This act shall take effect April first, nineteen hundred and twenty-two.

CHAPTER 256

AN ACT to authorize the village of Fairport, in the county of Monroe, to pave and curb West avenue from the west line of Perin street to the west line of Nelson street, and to authorize said village to issue bonds to pay the cost of said improvement and to provide for the payment of said bonds and the levy and collection of special assessments.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Construc-
tion of
pavement
au-
thorized.

Cost how
paid; bond
issue.

Bonds;
denomina-
tion,
maturity,
etc.

Section 1. The village of Fairport in the county of Monroe is authorized to construct on West avenue from the west line of Perin street to the west line of Nelson street, a pavement twenty-four feet wide between the curb lines, of the same type that was laid on West Church street, including concrete curbs, with the pavement carried at Nelson street, twenty-four feet to the south side of West avenue, at an expense not to exceed thirty-three thousand dollars, the cost of paving at street intersections to be paid by the village at large and the balance of such expense to be paid two-thirds by special assessment upon the adjoining land and one-third by the village at large; and to raise funds to pay the cost of said improvement said village is authorized to issue bonds in an amount not exceeding the sum of thirty-three thousand dollars. Said bonds shall be dated as of January first, nineteen hundred and twenty-two, and shall be of the denomination of one thousand dollars each, numbered from one to thirty-three, both inclusive, and mature in numerical order, three bonds on the first day of January in each of the years nineteen hundred and twenty-three to nineteen hundred and twenty-nine, both inclusive, and four bonds on the first day of January in each of

the years nineteen hundred thirty, nineteen hundred thirty-one and nineteen hundred thirty-two; said bonds shall bear interest at a rate not exceeding six per centum per annum, payable semi-annually on the first days of January and July in each year. Said bonds shall be general obligations of the village and shall be sold in the manner provided by section one hundred and twenty-nine of the village law at a price of not less than par value and accrued interest to date of delivery. Said bonds shall contain a recital that they are issued pursuant to this act, which recital may be by chapter number and shall be conclusive evidence of their validity and of the regularity of their issue.

To recite
this act;
effect.

§ 2. After the total cost of the improvement has been determined, two-thirds of such cost, exclusive of the cost of paving street intersections, shall be assessed upon the adjoining land and an assessment roll shall be prepared on the basis of and in proportion to feet frontage and filed in the office of the village clerk. Notice of hearing by the board of trustees thereon shall be given and upon the confirmation of the assessment roll, opportunity shall be given to the adjoining land owners to pay their assessments in full within the time limited by notice to be given, the procedure with reference to such assessments and the hearing thereon to be as nearly as may be as provided in the case of paving assessments by the village law. The board of trustees shall by resolution fix the time within which assessments may be paid in full and shall provide for the number of installments in which assessments not paid in full shall be payable and the times when such installments shall be payable. Assessments not paid in full within the time limited by the notice shall bear interest at the same rate as the bonds. Assessments payable in installments shall be made payable at such times as will provide sufficient funds to pay the proportionate part of the principal and interest of said bonds represented by such assessments as the same become due. If for any reason the village shall fail to collect a sufficient amount of said assessments with which to pay the proportionate part of the principal and interest of such bonds represented by such assessments as the same shall become due, the village is authorized to borrow upon its credit upon temporary notes, such sum as shall be necessary and sufficient to pay such proportionate part of the principal and interest of said bonds. The amount of said temporary note or notes and interest thereon, if not paid out of assessments collected, shall be included in the next succeeding annual tax levy.

Assessment on
adjoining land.

Payment
of assessments.

Temporary notes.

§ 3. There shall be raised by annual tax upon all the taxable property in said village and by special assessment upon the adjoining land as aforesaid a sum sufficient to pay the principal and interest of said bonds as the same become due.

Tax for
payment.

§ 4. This act shall take effect immediately.

CHAPTER 257

AN ACT to authorize the village of Fairport, in the county of Monroe, to pave and curb West avenue, in said village, from Main street, south, to the west line of Perin street, and to authorize said village to issue bonds to pay the cost of said improvement and to provide for the payment of said bonds and the levy and collection of special assessments.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Construc-
tion of
pavement
authorized.

Cost how
paid; bond
issue.

Bonds;
denomina-
tion,
maturity,
etc.

To recite
this act;
effect.

Assess-
ment on
adjoining
land.

Section 1. The village of Fairport in the county of Monroe is authorized to construct on West avenue from Main street, south, to the west line of Perin street, a pavement thirty-four feet wide between the curb lines, of the same type that was laid on West Church street, including concrete curbs, with the pavement carried at Perin street, twenty-four feet wide to the south side of West avenue, at an expense not to exceed eleven thousand dollars, the cost of paving at street intersections to be paid by the village at large and the balance of such expense to be paid two-thirds by special assessment upon the adjoining land and one-third by the village at large; and to raise funds to pay the cost of said improvement said village is authorized to issue bonds in an amount not exceeding the sum of eleven thousand dollars. Said bonds shall be dated as of January first, nineteen hundred and twenty-two, and shall be of the denomination of one thousand dollars each, numbered from one to eleven, both inclusive and mature in numerical order one bond on the first day of January in each of the years nineteen hundred twenty-three to nineteen hundred thirty-one, both inclusive, and two bonds on the first day of January in the year nineteen hundred thirty-two; said bonds shall bear interest at a rate not exceeding six per centum per annum, payable semi-annually on the first days of January and July in each year. Said bonds shall be general obligations of the village and shall be sold in the manner provided by section one hundred and twenty-nine of the village law at a price of not less than par value and accrued interest to date of delivery. Said bonds shall contain a recital that they are issued pursuant to this act, which recital may be by chapter number and shall be conclusive evidence of their validity and of the regularity of their issue.

§ 2. After the total cost of the improvement has been determined, two-thirds of such cost, exclusive of the cost of paving street intersections, shall be assessed upon the adjoining land and an assessment roll shall be prepared on the basis of and in proportion to feet frontage and filed in the office of the village clerk. Notice of hearing by the board of trustees thereon shall be given and upon the confirmation of the assessment roll, opportunity shall be given to the adjoining land owners to pay their assessments in full within the time limited by notice to be given,

the procedure with reference to such assessments and the hearing thereon to be as nearly as may be as provided in the case of paying assessments by the village law. The board of trustees shall by resolution fix the time within which assessments may be paid in full and shall provide for the number of installments in which assessments not paid in full shall be payable and the times when such installments shall be payable. Assessments not paid in full within the time limited by the notice shall bear interest at the same rate as the bonds. Assessments payable in installments shall be made payable at such times as will provide sufficient funds to pay the proportionate part of the principal and interest of said bonds represented by such assessments as the same become due. If for any reason the village shall fail to collect a sufficient amount of said assessments with which to pay the proportionate part of the principal and interest of such bonds represented by such assessments as the same shall become due the village is authorized to borrow upon its credit upon temporary note such sums as shall be necessary and sufficient to pay such proportionate part of the principal and interest of said bonds. The amount of said temporary note or notes and interest thereon, if not paid out of assessments collected, shall be included in the next succeeding annual tax levy.

Payment of
assess-
ments.

Tempo-
rary notes.

§ 3. There shall be raised by annual tax upon all the taxable property in said village and by special assessment upon the adjoining land as aforesaid a sum sufficient to pay the principal and interest of said bonds as the same become due.

Tax for
payment.

§ 4. This act shall take effect immediately.

CHAPTER 258

AN ACT to provide for the transfer of certain territory in the county of Ontario to the county of Livingston, and changing the dividing line between such counties in accordance therewith, and making provision as to certain matters incidental to such change.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All that territory now comprised within the limits of the town of West Bloomfield, James Welch and P. Welch, reputed owners, on the east side of Honeoye creek, with the inhabitants and estates therein, and described as follows:

Certain
described
territory
transferred.

Beginning at a point in the center of Honeoye creek 300 feet southerly from the center of the existing bridge which is station 273+13.1 of state highway number 5142, running thence south 2 degrees and 38 minutes east 185 feet to station 274+16 of the center line of state highway number 5142 as it is proposed to reconstruct same as shown on map filed in the office of the state commission of highways and approved by executive order on January twenty-seven, nineteen hundred and twenty-two, thence

Effect of
transfer.

To be part
of town
of Lima.

County
line
altered.

Liabilities
of terri-
tory
affected.

south 2 degrees and 38 minutes east 200 feet making an angle of $61\pm$ degrees with the aforesaid center line of said proposed highway as modified to the center of Honeoye creek where it intersects the existing county boundary between the aforesaid counties, thence northwesterly, northerly and northeasterly following the present existing boundary between said counties, in the center of said creek as it winds and turns $588\pm$ feet crossing said center line of said proposed highway as modified at station 272+07, to the point of beginning, containing 1.00 acre of land more or less, is hereby set off from the county of Ontario and annexed to and merged in and made a part of the county of Livingston and shall hereafter constitute a part of such town and county subject to the same laws, ordinances, regulations, obligations, and liabilities and entitled to the same rights, privileges, franchises and immunities in every respect and to the same extent as if such territory had been included within the said county of Livingston at the time of its organization; excepting, however, that it shall not be or become liable to pay any debt, liability or obligation contracted or incurred by said county prior to the time this act shall take effect. The territory hereby annexed to the county of Livingston shall be known as and is hereby declared to be a part of the town of Lima in said county, which said territory shall be subject to the same laws, ordinances, restrictions and regulations and be entitled to the same rights, franchises and immunities as are now or may hereafter be imposed upon or secured to the town of Lima, but shall not be or become liable to pay any debt, liability or obligation contracted or incurred by said town prior to the time this act shall take effect.

§ 2. The dividing line between the counties of Livingston and Ontario is hereby altered in conformity with the provisions of this act as follows: beginning at a point in the center of Honeoye creek 300 feet southerly from the center of the existing bridge which is station 273+13.1 of state highway number 5142, running thence south 2 degrees and 38 minutes east 185 feet to station 274+16 of the center line of state highway number 5142 as it is proposed to reconstruct same as shown on map filed in the office of the state commission of highways and approved by executive order on January twenty-seven, nineteen hundred and twenty-two, thence south 2 degrees and 38 minutes east 200 feet making an angle of $61\pm$ degrees with the aforesaid center line of said proposed highway as modified to the center of Honeoye creek where it intersects the existing county boundary between the aforesaid counties.

§ 3. The territory in the towns of West Bloomfield and Lima affected by this act shall remain liable for its just and proper proportion of the liabilities and obligations contracted or incurred by such towns or by the respective counties in which such property is located prior to the time this act shall take effect, and the moneys to meet the same, principal and interest as they accrue, shall be raised by taxation upon such property for said

principal and interest, and the taxes raised therefor, when collected, shall be paid over to the treasurers of the respective counties who shall be charged with the payment of said indebtedness from the moneys so paid over to them, and any moneys received from taxes or assessments levied before this act shall take effect, applicable to the payment of any such indebtedness, shall likewise be paid over to the respective treasurers for that purpose.

§ 4. This act shall take effect immediately.

CHAPTER 259

AN ACT to amend chapter seven hundred and fifty-two of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of North Tonawanda," generally.

Accepted by the City.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one and two of title twenty-one of chapter seven hundred and fifty-two of the laws of nineteen hundred and seven, entitled "An act to revise the charter of the city of North Tonawanda," as amended by chapter twenty-six of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1907, ch. 752, tit. 21, §§ 1, 2, as amended by L. 1921, ch. 26, amended.

§ 1. **How issued.** Whenever the common council shall approve a measure requiring the borrowing of money and the issue therefor of bonds of the city for any municipal purpose, for which there is no other adequate appropriation, it shall have power to borrow money upon the faith and credit of the city and to cause bonds to be issued therefor by the mayor and city treasurer, under the seal of the city, payable at such time and bearing such interest as the common council shall determine. But unless otherwise provided by this act, or by a special law, or the general laws of the state, no such bonds in excess of twenty-five thousand dollars for any specific measure,¹ shall be issued until the question of whether such issue shall be made shall first have been submitted to a vote of the taxpayers of the city, as shall appear on the last preceding general assessment rolls prior to the time of any special election ordered for that purpose, and a majority of such taxpayers voting at such election shall have approved of such issue, except as herein otherwise provided.

§ 2. **Proposition to be submitted to taxpayers.** At or before the time of ordering such a special election, the common council shall cause to be published in the official paper, at least once a week for two weeks, a statement showing the amount of bonds proposed to be issued, the time of payment, purpose for which

¹ Words "in excess of twenty-five thousand dollars for any specific measure," new.

the same are to be issued, and the plan and purposed expenditure of the proceeds. The common council shall by ordinance direct the mode and manner of submitting such proposition to the taxpayers of said city at a special election. The determination of such election shall be canvassed by the common council at its next meeting after such special election, and the result thereof declared according to the returns made on said election. If the proposition to issue such bonds shall be approved by a majority of the qualified voters voting at such election, the common council may then authorize the mayor and the city treasurer, under the seal of the city, to issue bonds in pursuance of and in conformity to, and of the amount specified by, the statement required to be published prior to such election, as aforesaid. When so duly authorized, the mayor and city treasurer shall issue said bonds according to said published statement, and may sell the same at not less than par and accrued interest, after due advertisement for bids therefor, as provided by this act. The proceeds of said bonds shall be deposited with the city treasurer, and shall be disbursed by him only upon order of the common council or department of the city having charge of the expenditures thereof, as proposed in the published statement above required, and shall be exclusively devoted to the purpose specified in such statement, and to no other purpose. All bonds so issued shall recite on their face that they are issued in conformity to and in pursuance of this title, and where the amount thereof exceeds twenty-five thousand dollars,² that their issue has been duly approved by the taxpayers of the city, as required by this title, and such recital shall be conclusive evidence in all courts and places of the validity of such bonds. At the option of the common council, said bonds, or any of them, may be used at not less than par and accrued interest in payment of any indebtedness incurred for any purpose specified in such statement.

§ 2. This act shall take effect immediately.

CHAPTER 260

AN ACT to amend the penal law, relating to the abandonment of disabled animals.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-six of the penal law is hereby amended to read as follows:

§ 186. **Abandonment of disabled animal.** A person being the owner or possessor, or having charge or custody of an ¹ animal,

² Words "where the amount thereof exceeds twenty-five thousand dollars," new.

¹ Words "maimed, diseased, disabled, or infirm," omitted.

who abandons such animal, or leaves it to die in a street, road or public place, or who allows it to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor. Any agent or officer of the American Society for the Prevention of Cruelty to Animals, or of any society duly incorporated for that purpose, or any police officer, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing in the judgment of two reputable citizens called by him to view the same in his presence, to be maimed, diseased, disabled, or infirm so as to be unfit² for any useful purpose; or after such agent or officer has obtained in writing from the owner of such animal his consent to such destruction. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 261.

AN ACT to amend chapter five hundred and thirty-one of the laws of nineteen hundred and twenty-one, entitled "An act to amend the revised charter of the city of Syracuse, in relation to the boundary of such city and of the tenth and thirteenth wards thereof," in relation to the disposition of certain school property included by such chapter within the boundaries of the city of Syracuse.

Accepted by the City.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three of chapter five hundred and thirty-one of the laws of nineteen hundred and twenty-one, entitled "An act to amend the revised charter of the city of Syracuse, in relation to the boundary of such city and of the tenth and thirteenth wards thereof," is hereby amended to read as follows:

L. 1921, ch.
531, § 3,
amended.

§ 3. In case any of the territory hereby annexed to the city of Syracuse forms part of a town or school district which has an existing funded or other indebtedness, such proportion of such indebtedness as the assessed valuation of the property comprised within said territory so annexed bears to the assessed valuation

Indebted-
ness of
territory
annexed.

¹Words "maimed, diseased, disabled, or infirm so as to be unfit," substituted for words "glandered, injured, or diseased past recovery."

Sale of school-house authorized; application of proceeds.

of the property comprised within such town or school district shall constitute a charge against and be paid by said city and shall be provided for and paid in the same manner as other funded indebtedness of said city. ¹The common council of the city of Syracuse is hereby authorized and empowered to sell, in the same manner as other city properties are sold, the school-house and school lot formerly owned by school district number three of the town of Onondaga and by the provisions of this act included within the boundaries of the city of Syracuse. The proceeds derived from the sale of the said property shall be applied to the payment of the outstanding indebtedness that has been incurred or assumed by the district in connection with such school property and the excess, if any, shall be divided and paid over to the treasurer of the city of Syracuse to be credited to the board of education of such city and to the trustees of school district number three of the town of Onondaga to be used for the benefit of such district, such division to be made in the proportion that the assessed valuation of that portion of said district that is now included within the city boundaries and the assessed valuation of the remaining portion of the district bear respectively to the assessed valuation of the entire district as it existed prior to May third, nineteen hundred and twenty-one.

§ 2. This act shall take effect immediately.

CHAPTER 262

AN ACT to amend chapter three hundred and nineteen of the laws of eighteen hundred and seventy-three, entitled "An act to incorporate the Young Ladies' Christian Association of the City of New York," relative to the number of directors of such corporation.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2a added to L. 1873, ch. 319.

Section 1. Chapter three hundred and nineteen of the laws of eighteen hundred and seventy-three, entitled "An act to incorporate the Young Ladies' Christian Association of the City of New York," as amended by chapter three hundred and thirty-three of the laws of eighteen hundred and ninety-seven, and by chapter two hundred and sixty-five of the laws of nineteen hundred and eleven, is hereby amended by adding thereto a new section, numbered three-a, to read as follows:

Number of directors authorized to be increased.

§ 3-a. On the first Monday of January in the year nineteen hundred and twenty-three, or in any succeeding year, the board of directors of this corporation may be increased from twenty-one members to thirty members, by the election of nine directors in addition to the seven directors to be elected in that year. Such additional nine directors shall be elected by the active members

¹ Remainder of section new.

of this corporation on the first Monday of January in such year, to take office on the third Monday of January in such year, as follows: Three directors to hold office for a term of one year, three directors to hold office for a term of two years, and three directors to hold office for a term of three years, from such third Monday in January and until their successors are elected. Thereafter in each year ten directors shall be elected by the active members of this corporation on the first Monday of January, to hold office for a term of three years from the third Monday of said month, and until their successors are elected.

§ 2. All provisions in the acts hereby amended inconsistent with this act are hereby repealed. Incon-
sistent
acts.

§ 3. This act shall take effect immediately.

CHAPTER 263

AN ACT to amend chapter two hundred and forty-three of the laws of eighteen hundred and fifty-three, entitled "An act to incorporate the DeVeaux College for Orphans and Destitute Children," in relation to amount of income.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter two hundred and forty-three of the laws of eighteen hundred and fifty-three, entitled "An act to incorporate the DeVeaux College for Orphans and Destitute Children," as last amended by chapter two hundred and fifty-one of the laws of nineteen hundred and eighteen,¹ is hereby amended to read as follows:

§ 1. In order to carry into effect and to promote the benevolent design of Samuel De Veaux, late of the county of Niagara, deceased, as expressed in his will bearing date the third day of August, in the year one thousand eight hundred and fifty-two, by which certain real and personal estate is directed to be applied "for the purpose of establishing, founding and maintaining a benevolent institution, to receive and support orphan and destitute children; to train them up to industry; to learn them trades and professions, and to give them a mental and manual, and a social and religious education;" William H. DeLancey, of the county of Ontario; William Shelton and Elijah Ford, of the county of Erie; Horatio Seymour, of the county of Oneida; Peter A. Porter, Richard H. Woodruff, Washington Hunt, Elias Ranson and Joseph M. Clarke, of the county of Niagara, and their successors duly chosen and appointed as hereinafter specified, are hereby constituted a body corporate, which shall be deemed and taken to be the corporation directed by the said will to be formed, and as such shall and may take, hold and enjoy for the

L. 1852, ch. 243, § 1, as amended by L. 1918, ch. 251, amended.

Purposes of incorporation.

Corporators.

Powers.

¹ Previously amended by L. 1905, ch. 383; L. 1910, ch. 498.

purposes expressed in the said will the real and personal estate therein directed to be applied to the said purposes, as fully to all intents and purposes, as if the said corporation had been formed at the time of the death of the said Samuel DeVeaux, provided, however, that if the said trustees shall, at any time, be unable, from the income of the estate provided by said will, to use all and all parts of the buildings on the domain devised by said DeVeaux for the purposes hereinabove and in said will expressed, they may, for such time as they are so unable, devote such part or parts of said buildings as they cannot so utilize to such other use and purpose as shall be consistent with the purposes hereinabove and in said will expressed and as shall not impair or conflict with such purposes, but said trustees shall not, in any way, or to any extent pledge or make liable or expend any of the property income of the estate provided by said will in such other use of said portion of said buildings, and such other use of parts of said buildings shall be only of such parts thereof as cannot, from time to time, be utilized for the purposes designated in said will, and such other use of said buildings shall continue so long and only so long as the insufficiency of the income from the estate provided by said will renders the use of all thereof for the purposes described in said will impossible, and any and all income and profits derived from such other use of parts of said buildings shall be devoted to the purposes expressed in said will. The said corporation shall have perpetual succession, and be capable of taking and holding by purchase, gift, grant or devise, any real or personal estate for the purposes aforesaid; but the yearly income of the same and of the property so acquired under the said will shall not exceed the sum of one million dollars;² and shall possess the powers and privileges, and be subject to the liabilities and provisions contained in the third title of chapter eighteen of the first part of the revised statutes as the same may have been amended, so far as the same may be applicable, and not inconsistent with the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 264

AN ACT to amend the general business law, in relation to licenses for hawking and peddling.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 25, § 32, as amended by L. 1919, ch. 272, amended.

Section 1. Section thirty-two of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws," as last amended by chapter two hundred and seventy-two

² Formerly "one hundred thousand dollars."

of the laws of nineteen hundred and nineteen¹ is hereby amended to read as follows:

§ 32. **Licenses to soldiers, sailors and marines.** Every honorably discharged soldier, sailor or marine of the military or naval service of the United States, who is a resident of this state and a veteran of either the civil war, the Spanish-American war or the world war, or who shall have served beyond sea, and the widow of any such veteran, if she is a resident of the state, shall have the right to hawk, peddle, vend and sell by auction his own goods, wares or merchandise or solicit trade within this state, by procuring a license for that purpose to be issued as herein provided.

On the presentation to the clerk of any county in which any soldier, sailor or marine may reside of a certificate of honorable discharge from the army or navy of the United States, which discharge shall show that the person presenting it is a veteran of the civil war, the Spanish-American war or the world war, or that he has served beyond sea, or on presentation to such clerk by any such widow, of an affidavit of herself and two other residents of the county that she is such widow, accompanied by such certificate of honorable discharge of her deceased husband, such county clerk shall issue without cost to such soldier, sailor, marine or widow a license certifying him or her to be entitled to the benefits of this article. ²The application for the license herein provided shall be accompanied by a photograph of the applicant taken within thirty days prior to such application and upon the issuance of such license shall be attached thereto. A license issued without cost, under the provisions of this section, shall be personal to the licensee and any assignment or transfer thereof shall be absolutely void. ³Upon satisfactory proof by affidavit of the loss or destruction of any license issued as herein provided, the county clerk shall issue a duplicate license for the one so lost or destroyed and in which event the word "duplicate" shall be legibly written in ink across the face thereof. A person assigning or transferring, or attempting to assign or transfer any such license contrary to the provisions of this section shall be guilty of a misdemeanor.

§ 2. This act shall take effect immediately.

CHAPTER 265

AN ACT to amend the general municipal law, in relation to public general hospitals for the care of the sick.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and twenty-six to one hundred and thirty-five, both inclusive, of chapter twenty-nine of the laws

¹ Previously amended by L. 1915, ch. 175; L. 1919, ch. 42.

² Following sentence new.

L. 1909, ch. 29, §§ 126-135, as added by L. 1910, ch. 558, amended.

of nineteen hundred and nine, entitled "An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws," such sections having been added by chapter five hundred and fifty-eight of the laws of nineteen hundred and ten, are hereby amended to read, respectively, as follows:

§ 126. **Establishment of public general hospitals.** The governing board of any county,¹ town, city or village may by resolution determine that there shall be in said county,¹ town, city or village a public general hospital for the care and treatment of the sick² and in any county not having a tuberculosis hospital established under sections forty-five to forty-nine-e, both inclusive, of the county law, said public general hospital may include a pavilion or other provision for the care of tuberculosis patients. In any city in which a board of estimate and apportionment or other board is required to approve appropriations for public purposes, the resolution of the governing board to establish a public general hospital shall be effective only after the necessary appropriation for lands and buildings for such public general hospital shall have been approved by said board of estimate and apportionment or other board, in the same manner and by the same vote by which it is required by law to approve other appropriations for public purposes. In any county,¹ town, or in any city of the third class, or in any village, the resolution of the governing board to establish a public general hospital shall be effective only after the necessary appropriation for lands and buildings for such public general hospital shall have been approved at a general county,³ town, city or village election by a majority of the voters qualified to vote⁴ and voting upon such proposition. When the governing board of any county,¹ town, city or village shall have voted to establish a public general hospital and the estimated expenditure for lands and buildings shall have been approved as hereinabove provided, such governing board shall have the following powers:

1. To purchase and lease real property therefor, or acquire such real property and easements therein by condemnation proceedings in the manner prescribed in the condemnation law, in any locality within the jurisdiction of such governing board.

2. To cause to be assessed, levied and collected such sums of money as shall have been approved as hereinabove provided for suitable lands and buildings, and as it shall deem necessary for equipment and improvements for said hospital, and for the maintenance thereof, and for all other necessary expenditures therefor; and to borrow money for the purchase of a site and for the erection and equipment of such hospital on the credit of the county,¹ town, city or village of which it is the governing board, and issue obligations therefor, in such manner as it may do for other county,¹ town, city or village purposes, respectively.

¹ Word "county" new.

² Remainder of sentence new.

³ Words "general county" new.

⁴ Remainder of sentence formerly read: "upon a proposition to raise town, city or village funds."

3. To accept and hold in trust for the county,⁵ town, city or village of which it is the governing board, any grant or devise of land, or any gift or bequest of money or other personal property, or any donation to be applied, principal or income, or both, for the benefit of said hospital, and apply the same in accordance with the terms of the gift.

§ 127. **Appointment and terms of office of managers.** When a governing board of a county,⁵ town, city or village shall have determined to establish a public general hospital for the care and treatment of the sick, the board of supervisors of the county,⁶ the supervisor of the town, the mayor of the city or the president of the board of trustees of the village shall appoint five citizens of the county,⁵ town, city or village, respectively, who shall constitute a board of managers of the said hospital. The term of office of each member of said board shall be five years, and the term of one of such managers shall expire annually; the first appointments, however, being made for the respective terms of five, four, three, two and one years. Appointments of successors shall be for the full term of five years, except that the appointment of a person to fill a vacancy occurring by death, resignation or cause other than the expiration of a term shall be made for the unexpired term. Failure of any manager to attend three consecutive meetings of the board shall cause a vacancy in his office, unless said absence is excused by formal action of the board of managers. The managers shall receive no compensation for their services, but shall be allowed their actual and necessary traveling and other expenses, to be audited by the governing board, and paid in the same manner as the other expenses of the hospital. Any manager may be removed from office at any time by the appointing authority after having received notice in writing of the cause of the proposed removal and after an opportunity to be heard thereon. The treasurer of the county,⁵ town, city or village by which the hospital is maintained shall be treasurer of the hospital.

§ 128. **General powers and duties of managers.** The board of managers shall:

1. Elect from among its members annually a president, a vice-president, and a secretary. It shall appoint a superintendent of the hospital, who shall not be a member of the board of managers, and who shall hold office at the pleasure of said board.

2. Erect all necessary buildings; make all necessary improvements and repairs and alter any existing buildings, for the use of said hospital, provided that all expenditures for new buildings or alterations, other than ordinary repairs, shall first be authorized by the governing board of the county,⁵ town, city or village and the plans therefor approved by the state board of charities.

3. Fix the salary of the superintendent and the number and salaries of all other employees, within the limits of the appropria-

⁵ Word "county" new.

⁶ Words "the board of supervisors of the county," new.

tion made therefor by the governing board, and such salaries shall be compensation in full for all services rendered. The board of managers may determine the amount of time required to be spent at the hospital by said superintendent in the discharge of his duties.

4. Provide for the medical care and treatment of all persons admitted to the hospital; and shall appoint and may at pleasure remove resident, visiting and consulting physicians and surgeons; and shall establish rules and regulations governing the service thereof.

5. Have the general superintendence, management and control of the said hospital and of the grounds, buildings, officers, employees and inmates thereof; and of all matters relating to the government, discipline, contracts and fiscal concerns thereof; and make such rules and regulations as may seem to them necessary for carrying into effect the purposes of such hospital.

6. Maintain an effective inspection of said hospital, and keep itself informed of the affairs and management thereof; shall meet at the hospital at least once in every month, and at such other times as may be prescribed in the by-laws; and shall hold its annual meeting at least three weeks prior to the meeting of the governing board at which appropriations for the ensuing year are to be considered.

7. Keep in a book provided for that purpose a proper record of its proceedings, which shall be open at all times to the inspection of its members, of the members of the governing board and of duly authorized representatives of the state board of charities.

8. Certify all bills and accounts, including salaries and wages, and transmit them to the governing board, who shall provide for their payment in the same manner as other charges against the county,¹ town, city or village.

9. Make to the governing board of the county,¹ town, city or village by which the hospital is maintained, at such times as said board shall direct, a detailed annual report of the operations of the hospital, the number of patients received, the methods and results of their treatment, and such other matters as may be required of them. Such reports shall include full and detailed estimates of the appropriations required during the ensuing year for all purposes, including maintenance, erection of buildings, repairs, improvements and other necessary purposes.

§ 129. **General powers and duties of superintendent.** The superintendent shall be the chief executive officer of the hospital and, subject to the by-laws, rules and regulations thereof, and to the general control of the board of managers, shall:

1. Equip the hospital with all necessary furniture, appliances, fixtures and other needed facilities for the care and treatment of patients and for the use of officers and employees thereof, and purchase all necessary supplies.

2. Have general supervision and control of the records, accounts, and buildings of the hospital and all internal affairs, and

¹ Word "county" new.

maintain discipline therein, and enforce compliance with, and obedience to, all rules, by-laws, and regulations adopted by the board of managers for the government, discipline and management of said hospital, and the employees and inmates thereof. He shall make and enforce such further rules, regulations and orders as he may deem necessary, not inconsistent with law, or with the rules, regulations and directions of the board of managers.

3. Appoint such employees as he may think proper and necessary for the efficient performance of the business of the hospital, and prescribe their duties; and for cause stated in writing, after an opportunity to be heard, discharge any such employee at his discretion.

4. Cause proper accounts and records of the business and operations of the hospital to be kept regularly from day to day, in books and on forms provided for that purpose; and see that such accounts and records are correctly made up for the annual report to the governing board, as required by subdivision seven of section one hundred and twenty-eight of this chapter, and present the same to the board of managers, who shall incorporate them in their annual report to the said governing board.

5. Receive into the hospital, under the rules established by the board of managers, any person in the county,⁷ town, city or village who is sick or maimed or injured and who is in need of hospital care, irrespective of whether such person is able to pay for his care or not; and may also receive persons from without the county,⁷ town, city or village, provided there is a vacancy in the hospital, and provided the reception of such person does not interfere with the proper care and treatment of persons received from the county,⁷ town, city or village.

6. Cause to be kept proper records of the admission of all patients, their name, age, sex, color, marital condition, residence, occupation, place of last employment and the names and addresses of their nearest relatives or friends. He shall also cause a careful examination to be made of the physical condition of all persons admitted to the hospital; and shall cause a record to be kept of the condition of each patient when admitted, and from time to time thereafter.

7. Discharge from said hospital any patient who is found to have recovered from his illness sufficiently to be no longer in need of hospital care, or who shall wilfully or habitually violate the rules thereof, or who for any other reason is no longer a suitable patient for treatment therein; and shall make a full report thereof at the next meeting of the board of managers.

8. Collect and receive all money due the hospital, keep an accurate account of the same, report the same at the ensuing monthly meeting of the board of managers, and transmit the same within ten days after such meeting to the treasurer of the county,⁷ town, city or village by which the hospital is maintained.

⁷ Word "county" new.

9. Give a bond before entering upon the discharge of his duties, in such sum as the board of managers may determine, to secure the faithful performance of such duties.

§ 130. **Admission and maintenance of patients.** Whenever a patient shall have been admitted to such hospital, the superintendent shall cause to be made such inquiry as he may deem necessary, relative to the ability of such patient, or of the relatives of such patient legally liable for his support, to pay for his care and treatment. If he finds that such patient, or said relatives, are able to pay for his care and treatment in whole or in part, an order shall be made by the superintendent directing such patient, or said relatives, to pay to the treasurer of such hospital for the support of such patient a specified sum per week, in proportion to their financial ability, but such sum shall not exceed the actual cost of maintenance. The superintendent shall have the same power and authority to collect such sums from the patient, or his relatives legally liable for his support, as is possessed by an overseer of the poor in like circumstances. If the superintendent find that such patient, or his said relatives, are not able to pay, either in whole or in part, for his care and treatment in such hospital, the unpaid cost of his maintenance shall become a charge upon the county,⁹ town, city or village by which the hospital is maintained; provided, however, that in case such patient is not a resident of said county,⁹ town, city or village, the cost of his maintenance shall be a charge upon the civil division of the state upon which he would be a charge as a poor person. No employee of such hospital shall accept from any patient thereof any fee, payment or gratuity whatsoever for his service.

§ 131. **Training school for nurses.** The board of managers of any hospital under this article⁹ may establish and maintain in connection therewith and as a part of the public hospital a training school for nurses. The board may, in its discretion, appoint an advisory board for such training school and define the functions of such advisory board.

§ 132. **Room for detention and examination of persons who are suspected of being insane.** The board of managers may provide a suitable room for the temporary detention, observation and care of persons who are suspected of being insane and shall do so upon the direction of the governing board or of the state hospital commission;¹⁰ provided, however, that the state hospital commission¹⁰ before making such direction shall give to both the board of managers and the governing board due notice and opportunity to be heard thereon.

§ 133. **Visitation and inspection.** Members of the board of managers shall be admitted to every part of the hospital and premises, and shall have access to all books, papers, accounts and records pertaining to the hospital and shall be furnished with

⁹ Word "county" new.

⁹ Word "article" substituted for word "act."

¹⁰ Words "hospital commission" substituted for words "commission in lunacy."

copies, abstracts and reports whenever required by them. All hospitals established or maintained under the provisions of sections one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-three and one hundred and thirty-four of this act shall be subject to inspection by any duly authorized representative of the state board of charities, of the state department of health,¹¹ of the state charities aid association, and of the governing board of the county,¹² town, city or village by which the hospital is maintained; and the resident officer in charge shall admit such representatives into every part of the hospital and premises, and give them access on demand to all records, reports, books, papers and accounts pertaining to the hospital.

§ 134. Existing county,¹² town, city or village public general hospitals. Whenever a county,¹² town, city or village has, previous to the passage of this act, established a public general hospital, the governing board of said county,¹² town, city or village may by resolution provide that thereafter such hospital shall be controlled and maintained in accordance with the provisions of this act. Any public general hospital which may hereafter be established by any governing board of any county,¹² town, city or village shall be subject to all the provisions of sections one hundred and twenty-six to one hundred and thirty-four, inclusive, of this chapter.

§ 135. Application of preceding sections. Sections one hundred and twenty-six to one hundred and thirty-four, both inclusive, of this chapter¹² shall not apply to the city of New York.

§ 2. This act shall take effect immediately.

CHAPTER 266

AN ACT to amend the highway law, in relation to the acquisition of land for right of way and other purposes on improved town highways.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and ninety-one of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter eighty-four of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1909, ch. 30, § 191, as amended by L. 1921, ch. 84, amended.

¹¹ Words "of the state department of health" new.

¹² Word "county" new.

¹³ Words "of this chapter" new.

¹ Previously amended by L. 1915, ch. 322.

§ 191. **Highways by dedication.** Whenever land is dedicated to a town for highway purposes therein, the town superintendent may with the consent of the town board, either with or without a written application therefor, and without expense to the town, make an order laying out such highway, upon filing and recording in the town clerk's office with such order a release of the land from the owner thereof. A highway so laid out must not be less than two rods in width, except that where such highway is located on a sand beach separated by more than two miles of water from the main body of the town of which it forms a part and is not an extension or continuation of a public highway already in use and has erected thereon a board walk not less than one-third the width of said highway, such highway so laid out may be less than two rods in width and must not be less than ten feet in width. Section two hundred does not apply to a highway by dedication. Such town superintendent may also, upon written application and with the written consent of the town board, make an order laying out or altering a highway, or discontinuing a highway, which has become useless since it was laid out, upon filing and recording in the town clerk's office, with such application, consent and order, a release from all damages from the owners of lands taken or affected thereby, when the consideration for such release, as agreed upon between such town superintendent, and owner or owners, shall not in any one case, from any one claimant, exceed three hundred dollars, and from all claimants one thousand dollars. An order of the town superintendent, as herein provided, shall be final. ² If a highway proposed to be constructed or improved shall deviate from the line of a highway already existing, the town board of the town where such highway is located may acquire land for the requisite right of way. It may also acquire lands for the purpose of obtaining gravel, stone or other material, when required for construction, together with a right of way to any pit, quarry, or other place where the same may be located. The town board may, by resolution, authorize the supervisor to purchase the lands to be acquired for the purposes herein specified, but the amount to be paid, for such purposes, to a single person shall not exceed the sum of two hundred dollars, unless approved by the county judge and county treasurer, and in no case shall such amount exceed the sum of one thousand dollars. The purchase price of such property shall be a town charge and may by resolution of the town board, be paid from any funds in such town that may be legally used for such purposes. Such board may by resolution authorize the supervisor to borrow money for the purchase of any such property or right of way, on the faith and audit of the town by temporary loan in anticipation of the next succeeding tax levy, or it may authorize the issue and sale of bonds therefor, to be issued and sold in the same manner as other town bonds.

§ 2. This act shall take effect immediately.

² Remainder of section new.

CHAPTER 267

AN ACT to amend the insurance law, in relation to the election of directors of mutual employers' liability and workmen's compensation insurance companies.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-seven of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter eight hundred and thirty-two of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

§ 187. **Directors and officers.** Any such corporation shall have not less than thirteen directors, and such officers as shall be provided in the certificate of incorporation or by the by-laws made by the members. The directors shall be elected annually by the votes of the members, ¹ but at any time after the first annual meeting the directors may be divided by the board into three groups, as nearly equal as possible and thereafter one group only elected at each annual meeting, in a manner to be provided by the by-laws. All except two of the directors of the corporation elected after the organization of the corporation is completed and it is authorized to begin to issue insurance policies shall be members of the corporation. All the officers except the secretary, assistant secretary, assistant treasurer ² and the actuary must be members of the board of directors.

§ 2. This act shall take effect immediately.

L. 1909, ch. 22, § 187, as added by L. 1912, ch. 322, amended.

CHAPTER 268

AN ACT to amend the insurance law, in relation to the standard fire insurance policy.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision tenth of section one hundred and twenty-one of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter four hundred and forty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1909, ch. 22, § 121, subd. 10th, as added by L. 1917, ch. 440, amended.

¹ Remainder of sentence new.

² Words "assistant treasurer" new.

Standard
fire in-
surance
policy.

Tenth. There may be printed upon said policy form, elsewhere than upon the first and second pages or the filing back thereof, the names of the officers and directors of the company or companies issuing the said policy, and any form providing for assignment of interest or removal, and any blank form of receipt, approved by the superintendent of insurance.

The superintendent of insurance, either in person or by one or more competent and disinterested persons specially appointed by him for that purpose, shall have access to and may at any time examine the books, papers and documents of any fire insurance corporation doing business in this state, or of any corporation, association or bureau maintained for the purpose of suggesting, approving or making rates to be used by more than one underwriter for insurances on property located in this state, for the purpose of determining the number and extent of use of any riders, indorsements, clauses, permits, forms or other memoranda attached to and made a part of any fire insurance contract relating to property located in this state; and after such examination and inspection such superintendent of insurance may determine that the use of any such rider, indorsement, clause, permit, form or other memoranda is so extensive that there should be in his judgment a standard form thereof, and he shall thereupon prepare and file in his office such standard form of rider, indorsement, clause, permit, form or other memoranda, and thereafter no fire insurance corporation shall attach to any such standard policy of insurance, any rider, indorsement, clause, permit, form or other memoranda covering substantially the same agreement provided for by such standard rider, indorsement, clause, permit, form or other memoranda except it be in the precise language of the form so filed by the superintendent of insurance. Forms of riders, indorsements, clauses, permits, forms or other memoranda to be attached to and made a part of fire insurance contracts relating to property located in this state may be presented for filing in the office of the superintendent of insurance by any corporation, association or bureau maintained for the purpose of suggesting, approving or making rates to be used by more than one underwriter for insurances on property located in this state, and, when approved and filed by such superintendent of insurance, shall thereupon become standard forms of riders, indorsements, clauses, permits, forms or other memoranda and their use shall be required, as hereinbefore provided. Whenever, in the judgment of the superintendent of insurance, there shall be no further necessity for requiring the use of any standard form of rider, indorsement, clause, permit, form or other memoranda in the precise language theretofore required, he may give notice in writing of such determination, to each fire insurance corporation doing business in this state, and to each such corporation, association or bureau maintained for the purpose of suggesting, approving or making rates, as aforesaid, and thereafter the use of such standard form shall not be required as herein provided.

Appropriate forms of supplemental contract or contracts

whereby the property described in such policy shall be insured against one or more of the risks specified in section one hundred and ten of this chapter, in addition to the risk of direct loss or damage by fire, may be approved by the superintendent of insurance, and their use in connection with a standard fire insurance policy may be authorized by him.

Whenever application shall be made for the selection of an umpire pursuant to the provisions relating to appraisals as contained in such standard fire insurance policy, such application shall be made to a judge of the supreme court residing in the county, or to a county judge of ¹ the county, in which the lost or damaged property is or was located, on five days' notice in writing, to be given by either party to the other, of his or its intention so to do. Any such notice in writing, when served by the insured, may be served upon any local agent of the company; and the said judge shall, on proof by affidavit of the failure or neglect of the said appraisers to agree upon and select an umpire within the time provided in said policy, and of the service of notice aforesaid, forthwith appoint a competent and disinterested person to act as such umpire in the ascertainment of the amount of said loss or damage.

§ 2. This act shall take effect immediately.

CHAPTER 269

AN ACT to create a permanent commission on pensions, and to provide expenses therefor.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Commission created.** A state commission is hereby created consisting of five members, of whom one shall be the superintendent of insurance of the state of New York. As soon as practicable after this act takes effect, four members shall be appointed by the governor, one for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years and at the expiration of each such term one shall be so appointed for a term of four years. Such commission shall inquire into the subject of retirement pensions, allowances and annuities for state and municipal officers and employees, especially with reference to the method of further establishing and maintaining the fund from which such pensions, allowances and annuities shall be paid. A vacancy occurring in the office of a member of such commission shall be filled for the unexpired term.

¹ Words "of the supreme court residing in the county, or to a county judge of," substituted for words "in a court of record in."

§ 2. **Eligibility.** A member of the commission shall not be disqualified from holding any other office, state or municipal, nor forfeit the same by reason of his appointment under this act, notwithstanding the provisions of any city charter.

§ 3. **Powers of commission.** Such commission shall have power to subpoena and compel the attendance of public officers and employees, and to require the production of any or all books, records and papers under their care or control, to take and hear proofs and testimony and adopt rules for the conduct of its proceedings.

§ 4. **Officers and employees.** The commission shall select a chairman and vice-chairman and a secretary from among its own members and may employ experts and other assistants as may be needed, in connection with the duties of the commission, and may fix their compensation, within amounts available therefor by appropriation.

§ 5. **Expenses of commissioners.** The members of such commission shall receive no compensation for their services, but such members and the employees of the commission shall be paid their actual and necessary traveling, hotel and other expenses incurred in the discharge of their duties.

§ 6. **Report to governor and legislature.** The commission shall, from time to time, report the result of its inquiry to the governor and legislature, including such proposed legislation as it may deem advisable.

§ 7. The commission to inquire into the subject of pensions created pursuant to chapter four hundred and fourteen of the laws of nineteen hundred and eighteen, as amended, shall immediately turn over all books, records, papers and documents in its possession, to the commission created by this act.

§ 8. **Appropriation.** The sum of five thousand dollars (\$5,000) or so much thereof as may be needed is hereby appropriated for the purposes of this act, payable by the treasurer on the warrant of the comptroller on the order of the chairman or vice-chairman of such commission.

§ 9. This act shall take effect immediately.

CHAPTER 270

AN ACT to amend the penal law, in relation to the use of a representation of the national or state flag, standard, color, shield, or ensign, on business stationery.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
88, § 142^b,
subd. 16
amended.

Section 1. Subdivision sixteen¹ of section fourteen hundred and twenty-five of the penal law is hereby amended to read as follows:

¹ As amended by L. 1917, chs. 54, 779; L. 1921, ch. 428.

16. Any person, who

a.² In any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement, of any nature upon any flag, standard, color, shield or ensign of the United States of America or the state of New York, or shall expose or cause to be exposed to public view any such flag, standard, color, shield or ensign, upon which after the first day of September, nineteen hundred and five, shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word figure, mark, picture, design, or drawing, or any advertisement of any nature, or³

Use of flag
for adver-
tising pur-
poses, etc.,
prohibited.

b. Shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article, or substance, being an article of merchandise, or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which after the first day of September, nineteen hundred and five, shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, shield or ensign, to advertise, call attention to, decorate, mark, or distinguish, the article or substance on which so placed, or⁴

c.⁴ Shall print, engrave, or otherwise place or cause to be printed, engraved or otherwise placed on any blank check, bill head, letter head, envelope or other business stationery, a representation of any such flag, standard, color, shield or ensign, or shall use any such blank check, bill head, letter head, envelope or other stationery for business purposes or correspondence, or

d. Shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt upon either by words or act, or⁵

Mutilation,
etc., of
flag pro-
hibited.

e. Shall publicly use or cause any such flag, standard, color, shield or ensign, to be publicly used as a receptacle for the placing, depositing or collecting of money or any other article or thing,

Shall be deemed guilty of a misdemeanor; and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered with costs in a civil action, or suit, in any court having jurisdiction, and such action or suit may be brought by or in the name of any citizen of this state, and such penalty when collected less the reasonable cost and expense of action or suit and recovery to be certified by the district attorney of the county in which the offense is committed shall be paid into the treasury of this state; and two or more penalties may be sued for and recovered in the same action or suit.

Penalties.

The words, flag, standard, color, shield or ensign, as used in this subdivision or section, shall include any flag, standard, color, shield or ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of, said flag,

Definitions.

¹ Division of subd. 16 into subds. a-e new.

² Word "who" omitted.

³ Subd. c new.

standard, color, shield or ensign, of the United States of America, or of the state of New York, or a picture or a representation, of either thereof, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard, shield or ensign of the United States of America, or of the state of New York.

Use of flag
for certain
purposes
authorized.

This subdivision shall not apply to any act expressly permitted by the statutes of the United States of America, or by the United States army and navy regulations, nor shall it be construed to apply to a certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry, stationery for use in private correspondence, or newspaper or periodical, on any of which shall be printed, painted or placed, said flag, standard, color, shield or ensign disconnected and apart from any advertisement.

Possession
as evi-
dence of
violation.

The possession by any person, other than a public officer, as such, of any such flag, standard, color, shield or ensign, on which shall be anything made unlawful at any time by this section, or of any article or substance or thing on which shall be anything made unlawful at any time by this section shall be presumptive evidence that the same is in violation of this section, and was made, done or created after the first day of September, nineteen hundred and five, and that such flag, standard, color, shield, ensign, or article, substance, or thing, did not exist on the first day of September, nineteen hundred and five.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 271

AN ACT to amend the transportation corporations law, in relation to construction of electric lines over Indian reservations.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 67 added
to L. 1909,
ch. 219.

Section 1. Chapter two hundred and nineteen of the laws of nineteen hundred and nine, entitled "An act in relation to transportation corporations, excepting railroads, constituting chapter sixty-three of the consolidated laws," is hereby amended by inserting therein a new section, to be section sixty-seven, to read as follows:

§ 67. **Construction over Indian reservations.** Any corporation organized under this article may contract with the chiefs of any nation of Indians over whose lands it may be necessary to construct its electric lines for the right to construct such electric lines upon such lands, but no such contract shall vest in the corporation the fee of such lands nor the right to occupy the same for any purpose other than for the construction, operation and maintenance of such electric lines, nor shall such contract be

valid or effectual until the same has been ratified by the county court of the county in which the lands are situated and approved by the public service commission pursuant to section sixty-eight of the public service commission law.

§ 2. This act shall take effect immediately.

CHAPTER 272

AN ACT in relation to the acquisition of lands for public purposes in the city of Troy.

Accepted by the City.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever the common council of the city of Troy, shall have authorized or may hereafter authorize the city to acquire the fee of, or any right, title, interest or easement in any lands within or outside the limits of the city, but adjacent thereto, for any public or municipal purpose, and the proper municipal officers have instituted proceedings, in the manner provided by law, to acquire such lands by condemnation, upon the filing of the oaths of the commissioners appointed pursuant to law to ascertain and determine the just compensation to be paid for such lands, the said city of Troy, or its proper officers, agents and employees of said city may enter upon any of the lands described in such ordinance for the purpose of doing any of the work or making any of the improvements authorized in such ordinance and may take and appropriate such lands for the immediate use of said city for any of the purposes mentioned in such ordinance, provided that, where such entry is made prior to the payment of the awards for such lands, such awards shall bear interest from the date of such entry.

Immediate entry when lands to be acquired for public purposes.

§ 2. The city of Troy shall have power, from time to time, to issue its bonds, in the manner, form and conditions prescribed by law to pay the cost of any lands acquired under the provisions of this act.

Bond issue for payment.

§ 3. This act shall take effect immediately.

CHAPTER 273

AN ACT in relation to fees in the surrogate's court of the county of Westchester.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Except where a greater fee is allowed by another statute for the same service, the clerk of court of the surrogate's

Schedule of fees.

court of the county of Westchester shall charge and receive for the use of the county the following fees:

1. For furnishing a transcript of a decree to be filed in the county clerk's office, fifty cents.

2. For a certificate, other than a certificate that a paper, for the copying of which he is entitled to a fee, is a copy, twenty-five cents.

3. For making and certifying a copy of a will, or any paper on file, or recorded in his office, fifteen cents for each folio, minimum fee fifty cents.

4. For comparing and certifying that a paper is a copy of a record or paper on file, ten cents for each folio and twenty-five cents for certificate, with a minimum fee of fifty cents; and for comparing and certifying a case on appeal where printed copies thereof are presented by any party to any proceeding, one cent for each folio and twenty-five cents for certificate.

5. For filing the official bond or undertaking of an executor, administrator, guardian, trustee, or other fiduciary, fifty cents.

6. For recording any instrument for which no fee is otherwise provided, fifteen cents for each folio.

7. For taxing a bill of costs, fifty cents.

8. For issuing a certificate of notice of claims filed, fifty cents.

9. For filing a petition whereby any proceeding is commenced, except a petition filed in connection with matters mentioned in subdivision thirteen hereof, one dollar.

10. For sealing any paper when required, twenty-five cents.

11. For issuing executions upon judgments, fifty cents.

12. For searching for and certifying to any record in his office for which search is made, for each year the sum of fifteen cents for each record searched, except that he shall be entitled to a minimum fee of twenty-five cents for each search.

13. For filing petition for probate of will, three dollars, and for recording or filing an exemplified copy of a foreign will, twenty cents per folio with a minimum charge of six dollars.

14. On demanding a trial by jury in a proceeding other than a contested probate proceeding, five dollars.

15. For filing a note of issue in a contested probate proceeding, three dollars.

16. For producing papers, documents, books of record on file in his office under a subpoena duces tecum, if within the county where the public office is situated, fifty cents; if within any other county, one dollar additional for each day, or part thereof, the messenger is detailed from the office, in addition to mileage fees of eight cents per mile and the necessary expenses of messenger.

17. Where, upon the application of any party, a clerk of the surrogate's court goes to a place other than the surrogate's office, or the court room where the surrogate's court is regularly held, in order to take testimony, he shall be paid by such party his actual and necessary expenses.

18. In any case where the gross estate is shown by affidavit not to exceed the sum of one thousand dollars, no fees shall be

charged except for certificates, certified copies of papers, recording instruments other than wills, subpoenas, and the expenses provided by subdivision seventeen hereof.

On the appointment of a guardian, if it appears that the application is made for the purpose of enabling a minor to receive bounty, arrears of pay or prize money, or pension due, or other dues or gratuity from the federal or state government, for the services of the parents or brother of such minor in the military or naval service of the United States, no fee shall be charged or received.

When no
fee to be
charged.

In any proceeding instituted by the state tax commission no fee shall be charged or received from said commission.

§ 2. This act shall take effect immediately.

CHAPTER 274

AN ACT to amend chapter six hundred and forty-six of the laws of nineteen hundred and twenty-one, entitled "An act creating and establishing a department of charities in the county of Oneida, and extending and enlarging the powers and duties of the superintendent of the poor in relation thereto," generally, to abolish the office of superintendent of the poor of such county and transfer his powers and duties to the superintendent of charities, to define the powers and duties and provide for the operation and maintenance of such department, and to legalize the election of a superintendent of charities in the year nineteen hundred and twenty-one.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The title of chapter six hundred and forty-six of the laws of nineteen hundred and twenty-one, entitled "An act creating and establishing a department of charities in the county of Oneida, and extending and enlarging the powers and duties of the superintendent of the poor in relation thereto," is hereby amended to read as follows:

L. 1921, ch.
646, title
amended.

An act creating and establishing a department of charities in the county of Oneida, ¹ defining its powers and duties and providing for its operation and maintenance.

§ 2. Sections one to four of such act are hereby amended to read as follows:

§§ 1-4
amended.

§ 1. Creation of department of charities; chief executive officer. A department of charities is hereby created and established in the county of Oneida, of which the ² chief executive officer and department head shall be the ³ superintendent of charities. ⁴ Hereafter, such superintendent of charities shall be

¹ Remainder of title formerly read: "and extending and enlarging the powers and duties of the superintendent of the poor in relation thereto."

² Words "superintendent of the poor shall be the" omitted.

³ Words "shall be the" substituted for words "with the title of."

⁴ Following sentence new.

elected in such county at the general election in every third year, beginning in the year nineteen hundred and twenty-four.

§ 2. **Salary.** The superintendent of charities shall receive an annual salary of three thousand dollars, payable in monthly instalments, which shall be substituted for the salary heretofore⁵ paid to the superintendent of the poor and shall constitute the salary to be paid by the county for all services rendered both as superintendent of charities pursuant to this act and as superintendent of the poor pursuant to any other law.

§ 3. **Powers and duties.** In addition to all⁶ powers and duties now conferred and imposed upon the superintendent of the poor by law,⁷ such superintendent of charities shall⁸ be vested with full and exclusive power to prepare the annual estimates and fix and determine, subject to the approval of the board of supervisors,⁹ the amount of moneys required to be expended by any county official, department, board, institution or commission, or other public body expending the public moneys of the county of Oneida for the relief of the poor, the gratuitous care of the sick, the protection of orphan children, or for other charitable purposes and uses. The superintendent of charities shall submit such estimates and determination to the board of supervisors of the county of Oneida in time to be included in the annual tax levy and appropriation act of the board of supervisors. The superintendent of charities shall also possess full and exclusive power to approve or disapprove commitments to, and discharges from, charitable institutions, made by any committing or discharging officer under authority of law, of all poor, sick, or infirm persons or orphan children, or the placing-out and care of children, who are to be supported and maintained, either wholly or in part, at the expense of the county or of a town or city thereof,¹⁰ and the superintendent of charities shall endorse his approval in writing upon any such commitment or discharge, before any such commitment or discharge shall become effective. When committing any child to a private institution or private home at public expense, or approving any such commitment, the superintendent of charities shall, when practicable, require that such child shall be committed to an institution or private home governed by persons of the same religious faith as the parents of such child. Whenever the superintendent of charities shall decide, after reasonable notice to such institution or private home and a hearing, that any such child, received and retained in such institution, is not a proper charge against the county or a town or city thereof,¹¹ and written notice of such decision is given by him to such institution or private home, thereupon all right on

⁵ Word "heretofore" substituted for word "now."

⁶ Word "other" omitted.

⁷ Words "he shall, as" omitted.

⁸ Word "shall" new.

⁹ Words "subject to the approval of the board of supervisors," new.

¹⁰ Words "or of a town or city thereof" new.

¹¹ Words "or a town or city thereof" new.

the part of such institution or private home to receive compensation from the county for the further retention of such child shall cease.

§ 4.¹² **Apportionment of expense.** Each town and city of the county of Oneida shall be liable to the county of Oneida for all moneys expended for the purposes and uses enumerated in this act for the relief of persons having a settlement in such town or city, and at the end of each fiscal year the moneys so expended during such year for and on behalf of the persons having settlements in any of the towns or cities of the county shall be apportioned and charged back to such town or city and levied and collected in the same manner as other town or city charges. After the apportionment to each of the towns and cities of such amounts as shall have been expended for and on behalf of persons having settlements in such towns or cities the amount remaining shall be a county charge and borne by the county.

§ 3. Such chapter is hereby amended by inserting therein after section four a new section, to be section five, to read as follows:

§ 5. In case the amount included in the annual tax levy and appropriation act of the board of supervisors for any one year be insufficient for the purposes or uses enumerated in this act, or, in case no appropriation for such purpose shall have been included in the annual tax levy and appropriation act, then, and in that event, the sums necessary shall be appropriated by the board of supervisors of Oneida county as occasion demands to carry out the provisions of this act to be paid from funds in the county treasury, and if there should be no such funds available therefor, the county treasurer shall borrow a sufficient sum to pay such appropriation.

§ 4. The office of superintendent of the poor in the county of Oneida is hereby abolished. The election of a superintendent of charities in such county, at the general election in the year nineteen hundred and twenty-one, as such, instead of a superintendent of the poor, is hereby legalized, ratified and confirmed.

§ 5. This act shall take effect immediately.

§ 5 added.

Duty of supervisors when no moneys available.

Election of superintendent of charities legalized.

CHAPTER 275

AN ACT to amend the insurance law, in relation to standard provisions of life insurance policies.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and one of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter three hun-

L. 1909, ch. 33, § 101, as added by L. 1909, ch. 301, and amended by L. 1921, ch. 407, amended.

¹² Section 4 materially amended.

dred and one of the laws of nineteen hundred and nine and last amended by chapter four hundred and seven of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 101. **Standard provisions.** On and after January first, nineteen hundred and ten, no policy of life or endowment insurance shall be issued or delivered in this state unless and until a copy of the form thereof has been filed with the superintendent of insurance and formally² approved by him; nor shall such policy, except policies of industrial insurance where the premiums are payable weekly, be so issued or delivered unless it contains in substance the following provisions:

1. A provision that the insured is entitled to a grace either of thirty days or of one month within which the payment of any premium after the first year may be made, subject at the option of the company to any interest charge not in excess of six per centum per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in full force, but in case the policy becomes a claim during the said period of grace before the overdue premium or the deferred premiums of the current policy year if any are paid, the amount of such premiums, with interest on any overdue premium, may be deducted from any amount payable under the policy in settlement.

2. A provision that the policy shall be incontestible after it has been in force during the lifetime of the insured for a period of two years from its date of issue except for non-payment of premiums and except for violation of the conditions of the policy relating to military or naval service in time of war.

3. A provision that the policy shall constitute the entire contract between the parties, but if the company desires to make the application a part of the contract it may do so provided a copy of such application shall be indorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties.

4. A provision that if the age of the insured has been misstated the amount payable under the policy shall be such as the premium would have purchased at the correct age.

5. A provision that the policy shall participate in the surplus of the company annually.

6. A provision specifying the options to which the policyholder is entitled in the event of default in a premium payment after three full annual premiums shall have been paid.

7. A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, a sum equal

¹ Previously amended by L. 1911, ch. 369.

² Word "formally" new.

to, or at the option of the owner of the policy less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, less a sum not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. A company may, in lieu of the provision hereinabove permitted for the deduction from a loan on the policy of a sum not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto, insert in the policy a provision that one-fifth of the entire reserve may be deducted in case of a loan under the policy, or may provide therein that the deduction may be the said two and one-half per centum or the one-fifth of the said entire reserve at the option of the company. ³ The policy may further provide that if the interest on the loan is not paid when due it shall be added to the existing loan, and shall bear interest at the same rate.

8. A table showing in figures the loan values, if any, and the options available under the policy each year upon default in premium payments, during at least the first twenty years of the policy.

9. In case the proceeds of a policy are payable in installments or as an annuity, a table showing the amounts of the installments or annuity payments.

10. A provision that the holder of a policy shall be entitled to have the policy reinstated at any time within three years from the date of default unless the cash value has been duly paid, or the extension period expired, upon the production of evidence of insurability satisfactory to the company and the payment of all overdue premiums and any other indebtedness to the company upon said policy with interest at a rate not exceeding six per centum per annum payable annually.

Any of the foregoing provisions or portions thereof not applicable to single premium or nonparticipating or terms * policies, shall to that extent not be incorporated therein; and any such policy may be issued or delivered in this state which in the opinion of the superintendent of insurance contains provisions on any one or more of the several foregoing requirements more favorable to the policyholder than hereinbefore required. ⁴ For the purposes of this section application forms, rider forms and indorsement forms for use in connection with any such policy shall be deemed to be parts of policies and shall require the approval of the superintendent of insurance. No rider and no indorsement

* So in original. [Should be "term."]

³ Following sentence new.

⁴ Remainder of section, except last sentence, new.

shall be attached to or printed or stamped upon any policy issued or delivered in this state until the form of such rider or indorsement has been filed with the superintendent of insurance and formally approved by him. A policy, or any application, indorsement or rider form used in connection with any policy issued in violation of this section, shall nevertheless be held valid but shall be construed as provided in this section, and when any provision in such policy, application, indorsement or rider is in conflict with any provision of this section, or of any other statutory provision, the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by the provisions of this section. The provisions of this section shall not apply to policies of reinsurance nor to policies of group life insurance.⁵

§ 101b, as
added by
L. 1918,
ch. 192,
amended.

§ 2. Section one hundred and one-b of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter one hundred and ninety-two of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 101-b. **Standard provisions for policies of group life insurance.** No policy of group life⁶ insurance shall be issued or delivered in this state unless and until a copy of the form thereof has been filed with the superintendent of insurance and formally⁷ approved by him; nor shall such policy be so issued or delivered unless it contains in substance the following provisions:

(1) A provision that the policy shall be incontestible after two years from its date of issue, except for nonpayment of premiums and except for violation of the conditions of the policy relating to military or naval service in time of war.

(2) A provision that the policy, the application of the employer and the individual applications, if any, of the employees insured, shall constitute the entire contract between the parties, and that all statements made by the employer or by the individual employees shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense to a claim under the policy, unless it is contained in a written application.

(3) A provision for the equitable adjustment of the premium or the amount of insurance payable in the event of a misstatement of the age of an employee.

(4) A provision that the company will issue to the employer for delivery to the employee, whose life is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom payable, together with provision to the effect that in case of the termination of the employment for any reason whatsoever the employee shall be entitled to have issued to him by the company, without

⁵ Words "nor to policies of group life insurance" new.

⁶ Word "life" new.

⁷ Word "formally" new.

*evidence of insurability, and upon application made to the company within thirty-one days after such termination, and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, a policy of life insurance in any one of the forms customarily issued by the company, except term insurance, in an amount equal to the amount of his protection under such group insurance policy at the time of such termination.

(5) A provision that to the group or class thereof originally insured shall be added from time to time all new employees of the employer eligible to insurance in such group or class.

* Except as provided in this chapter it shall be unlawful to make a contract of life insurance covering a group in this state.

Policies of group life¹⁰ insurance, when issued in this state by any company not organized under the laws of this state, may contain, when issued, any provision required by the law of the state, or territory, or district of the United States under which the company is organized; and policies issued in other states or countries by companies organized in this state, may contain any provision required by the laws of the state, territory, district or country, in which the same are issued, anything in this section to the contrary notwithstanding. Any such policy may be issued or delivered in this state which in the opinion of the superintendent of insurance contains provisions on any one or more of the several foregoing requirements more favorable to the employer or to the employee than hereinbefore required.

§ 3. This act shall take effect immediately.

CHAPTER 276

AN ACT to convey to the county of Westchester the lands, buildings and premises known as the Mohansic lake reservation, in the town of Yorktown, Westchester county, and repealing chapter six hundred and fifty-nine of the laws of nineteen hundred and twenty-one, relating to the disposition thereof.

Became a law March 27, 1922, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All the right, title and interest of the people of the state of New York, in and to the lands, buildings and premises, including the railroad and railroad right of way and sidings of the Mohansic Lake Reservation in the town of Yorktown, Westchester county, as created by chapter five hundred and forty-three of the laws of nineteen hundred and eighteen, are hereby released, transferred and conveyed to the county of Westchester, in consideration of one dollar to be paid to the state of New York by

Title conveyed to Westchester county.

* Word "further" omitted.

* Following sentence new.

* Word "life" new.

Conditions
of con-
veyance.

Reverter.

L. 1921, ch.
659 re-
pealed.

the county of Westchester, subject to the conditions and for the purposes prescribed by this act. Such release, transfer and conveyance is made upon the express condition, and as a further consideration therefor, that the county of Westchester agrees to improve and develop such property for public park purposes and uses incidental thereto, and that the same when so improved and developed shall ever be free and accessible to all the people of the state without discrimination, in equal enjoyment thereof with the residents of Westchester county. The improvement, development and control of such park shall be such as is not inconsistent with the proper sanitary protection of all sources of the New York city water supply. The board of supervisors, or other governing board or body of Westchester county is hereby authorized to provide by taxation or by the issuance of the obligations of the county the needed funds for the improvement and development of such property. If the county of Westchester fail to improve and develop the same as provided by this act, the title thereto shall revert to the people of the state of New York, and the attorney-general may institute an action in the supreme court for a judgment declaring a reversion of such title in the state.

§ 2. Chapter six hundred and fifty-nine of the laws of nineteen hundred and twenty-one, entitled "An act authorizing the state board of estimate and control to sell and convey the lands, buildings and premises known as the Mohansic Lake Reservation in the town of Yorktown, Westchester county, providing for the manner of sale and disposition of proceeds" is hereby repealed.

§ 3. This act shall take effect immediately.

CHAPTER 277

AN ACT relating to the construction, reconstruction, improvement and re-improvement of streets and other highways in the village of Port Chester, and relating to the payment of the expense thereof.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Street im-
provement
authorized.

Section 1. The board of trustees of the village of Port Chester in the county of Westchester is hereby authorized to cause street improvements to be made in said village and to defray the expense of such improvements by special assessments, by general taxation and by borrowing, as herein provided. The term "street improvement" as used in this act includes the grading, re-grading, paving, re-paving, macadamizing and re-macadamizing of a street or other highway, the construction, re-construction and altering of curbs, gutters, drains, catch basins and manholes in a street or other highway, and the construction, re-construction and improvement of bridges or culverts constituting a part of a street or other highway.

§ 2. Before making any street improvement under the authority of this act, the said board of trustees shall cause plans, specifications and estimates of cost to be prepared and placed in the hands of the village clerk for public inspection, and shall also by resolution fix and determine what proportion of the cost of the work, if any, shall be specially assessed upon abutting property as hereinafter provided. Before entering into any contract for the making of such street improvement the said board of trustees shall cause notice to be published once in each of two successive weeks in one or more newspapers published in said village that on a day named in said notice, at least two weeks after the first publication thereof, the said board will receive sealed proposals for the making of such street improvement. On the day mentioned in said notice, or at such subsequent time to which the said board may adjourn for said purpose, the president, or in his absence the presiding officer of said board, shall, in the presence of the board, open such sealed proposals as may be submitted pursuant to said notice. No proposal shall be considered unless accompanied by the written consent of two sureties or of a corporate surety company duly authorized to carry on business in this state, conditioned that if the proposal be accepted they will execute and deliver a bond to the village to be approved by the said board in a penal sum to be fixed by the said board, conditioned on the construction of the work at the price and on the terms proposed, according to the plans and specifications in the possession of the village clerk, within such reasonable time as the said board may limit, and subject to the supervision and approval of the said board. The said board shall then, by a vote of a majority of all the members thereof, to be ascertained by taking and recording the ayes and noes, direct the construction of the proposed work, and accept the most favorable proposal or bid.

Plans and estimates.

Determination of assessment.

Proposals.

Acceptance of proposal

Specifications and contracts for any street improvement made under this act may provide that all persons submitting bids or proposals shall agree to keep and maintain the improvement in good repair for a certain term or period. It shall be lawful to enter into one contract for two or more street improvements. Neither the president nor any trustee owning or interested in any lands subject to special assessment under this act shall be disqualified from exercising the powers and duties conferred by this act or from acting or voting upon questions arising under the provisions thereof.

Contracts.

Officers when not disqualified.

§ 3. Every street railway company now authorized or that may hereafter be authorized to operate or maintain a street railway in said village shall be liable for the expense of paving, repaving, macadamizing, re-macadamizing or otherwise improving that portion of any street or other highway in said village which lies in the space between the tracks of such railway, the rails of said tracks, and two feet in width outside of said tracks. The said expense shall be assessed against such company and collected in the manner hereinafter provided for the collection of special assessments and such expense and assessment shall be a lien on all of the franchises and property of such company.

Liability of street railways for expense of paving.

Expense
how borne.

§ 4. The expense of every street improvement made under this act, exclusive of the amount required by section three of this act to be borne by a street railway company, shall be borne by the village at large, or by the owners of property abutting upon the improvement, or partly by the village at large and partly by such property owners, as the said board of trustees may determine prior to the making of the improvement.

Ascertain-
ment of
cost.

§ 5. Upon the completion of any street improvement made under this act the said board of trustees shall compute and ascertain the total cost thereof. In the total cost shall be included the interest paid or to be paid on notes issued by the village to pay the expense of the improvement pursuant to section nine of this act and all other expenses incident to the improvement and the assessments therefor. The said board shall thereupon determine the amount of the portion of said total cost which is to be borne by any street railway company as hereinbefore provided, if any, and also the amount of the portion of said total cost which is to be borne by the owners of abutting property, if any, and also the amount of the portion of said total cost, if any, which is to be borne by the village at large. If any portion of said cost is to be borne by the owners of abutting property the said board of trustees shall specially assess the amount of said portion of said cost upon the lots and parcels of land abutting directly on the street improvement, according to the extent of their respective frontages thereon, by an equal rate per foot of such frontage. For the purpose of levying such special assessments that part of a street improvement which is made at street intersections shall be treated like any other part of the improvement and the cost thereof may be assessed upon the lots and parcels of land abutting upon any part of the improvement. For the purpose of levying special assessments pursuant to this section the said board of trustees shall make out an assessment roll in which shall be entered the names of the persons assessed, as far as the said board can ascertain the same, the amount assessed against them, respectively, with a brief description of the lots or parcels of land assessed. Immediately after such assessment roll has been completed the board of trustees shall cause it to be deposited in the office of the village clerk for inspection by parties interested, and shall cause to be published a notice of the completion of the assessment roll, setting forth a description in general terms of the street improvement, and the time at which said board will meet for the purpose of hearing allegations and objections in respect of the special assessment, which meeting shall not be earlier than ten days after the first publication of said notice. Any number of assessment rolls may be included in one notice. At the time so appointed, or at some other time to which it may adjourn for that purpose, the board of trustees shall hear the allegations and objections of all persons interested who appear, and may make proof in relation thereto. The board of trustees may thereupon correct such assessment roll and either confirm the same or set it aside and provide for a new assessment. Whenever the board of trustees shall con-

Apportion-
ment of
cost.

Assessment
of abut-
ting land.

Assessment
roll.

Hearing of
objections.

Correction
or con-
firmation.

firm such an assessment the village clerk shall enter on the minutes of the board of trustees the date, hour and minute of such confirmation, and from the time of such confirmation the assessments embraced in the assessment roll shall be a lien on the real property against which the same are assessed, superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy of the same shall be delivered to the officer charged with the duty of collecting taxes in said village, and said assessments shall be collected in the same manner as taxes are collected in said village. Collection.

§ 6. The said board of trustees may correct, cancel or remit any assessment made under this section and may remit, cancel or adjust the interest or penalties on any such assessment. The said board of trustees may, when in its judgment there is any irregularity, omission or error in any of the proceedings relating thereto, set aside the whole of a special assessment made by it and thereupon make a re-assessment. In such case there shall be included, as a part of the cost of the street improvement involved, all interest paid or accrued on moneys borrowed by the village for the purpose of paying in the first instance the share of the cost of the improvement which has been or is to be specially assessed, and the proceedings shall be in all respects as in cases of an original special assessment, and such re-assessment shall have the same authority and binding force as if it had originally been properly made. Any person who may have paid a former assessment may be credited on a re-assessment with the amount so paid. Correction, cancellation or remission of assessment; re-assessment.

§ 7. Any property owner and any street railway company on whom or on whose property an assessment shall be levied for a street improvement as hereinbefore provided shall, if the said board of trustees shall so provide, have the option and privilege of paying said assessment either in one sum or in not more than ten equal annual installments, as may be determined by the said board of trustees. Such installments shall bear interest at the rate of six per centum per annum from the date of the confirmation of the assessment roll, and in case of the failure or neglect of any property owner or street railway company to pay any installment when the same shall become due and payable, then and in that event all of said installments remaining unpaid shall at once become due and payable and said property and franchises may be sold by the said board of trustees under the same rules, regulations, rights of redemption and savings as are now prescribed by law for the sale of land for unpaid taxes. The whole assessment may be paid at the time of paying any installment by payment of the principal and all interest accrued to that date. If any assessment or installment thereof is not paid when due it shall be subject to the same penalties as are now prescribed for unpaid taxes, in addition to the interest herein provided for. Option of paying in installments.

§ 8. No lands in the village of Port Chester shall be exempt from special assessment under the provisions of this act. No exemptions.

Issue of
temporary
notes.

§ 9. At any time before the cost of a street improvement shall be computed and ascertained as hereinbefore provided, the said board of trustees may from time to time borrow money upon the credit of the village to the extent required to pay the cost of said improvement or to repay any money borrowed under this section with interest thereon, and may issue notes of the village for the money so borrowed, payable either on demand or at a fixed time not more than six months from the date thereof. Said notes may be sold at public or private sale. Any temporary indebtedness incurred under this section, with the interest thereon, may be paid out of moneys raised by the issue and sale of bonds or certificates of indebtedness to be issued as hereinafter provided, or by means of special assessments levied for the street improvements, or may be included in the annual tax levy.

Bond issue.

Bonds;
how design-
ated, ma-
turity, tax
for pay-
ment.

Amount of
bonds
limited.

§ 10. At any time before or after the cost of a street improvement shall be computed and ascertained as hereinbefore provided, the said board of trustees may by resolution cause to be issued bonds of the village for the purpose of paying all or any part of the actual or estimated amount of that portion of the cost of a street improvement which is to be borne by the village at large, or for the purpose of paying temporary indebtedness incurred for said purpose. Such bonds shall be known as local improvement bonds. They shall be made payable in annual installments, the first of which shall fall due not more than two years after the date of said bonds, and the last not more than twenty-five years after said date. There shall be raised annually by tax upon all the taxable property in said village, after the issuance of said bonds, a sum sufficient to pay the principal and interest of said bonds as such principal and interest fall due. The village's share of the cost of two or more street improvements may be included in a single bond issue. The total amount of bonds at any one time outstanding issued by said village under this act or under chapter five hundred and seventeen of the laws of eighteen hundred and ninety-nine for the purpose of paying that part or proportion of the expense of a street improvement which is to be borne by the village at large, shall not exceed five per centum of the assessed valuation of property in said village, subject to taxation, as it appeared on the last corrected assessment roll thereof.

Issue of
assessment
bonds in
anticipa-
tion of
collection
of assess-
ments.

§ 11. At any time before or after the cost of a street improvement shall be computed and ascertained as hereinbefore provided, the said board of trustees may, in anticipation of the collection of special assessments, by resolution cause to be issued certificates of indebtedness or bonds (to be known as assessment bonds), for the purpose of paying all or any part of the actual or estimated amount of that portion of the cost of a street improvement which is to be borne by or shall have been or is to be assessed upon abutting property or a street railway company, or for the purpose of paying temporary indebtedness incurred for said purpose. Such bonds or certificates of indebtedness shall be made payable in annual installments, the first of which shall fall due not more

than two years after the date of said bonds or certificates of indebtedness, and the last not more than ten years after said date. All moneys derived from the collection of the assessments upon which special assessment bonds or certificates of indebtedness are predicated, collected after the passage of the resolution authorizing the issuance of such bonds or certificates, shall be placed in a special fund and used only for the purpose of paying the principal and interest of such bonds and certificates; and if at the time of the annual tax levy for any year it shall appear to said board of trustees that such fund will for any cause be insufficient to meet the principal and interest of all such bonds and certificates falling due during such year, the estimated amount of the deficiency may be included in such tax levy; provided, however, that it shall be lawful for said board of trustees to provide for the payment of such a deficiency by issuing additional assessment bonds or certificates of indebtedness, maturing within three years after their date, and not exceeding in amount the amount of the uncollected special assessments. The amount of the special assessments for two or more street improvements may be included in a single issue of assessment bonds or certificates of indebtedness.

§ 12. Bonds, notes and certificates of indebtedness issued under this act shall be of such denomination, bear such rate of interest, not exceeding six per centum per annum, payable semi-annually, and be payable at such places, and be in such form, as the said board of trustees may by resolution provide. They shall be signed by the president and treasurer of said village, attested by the village clerk, and sealed with the corporate seal of the village. Coupons attached to such bonds, notes or certificates shall bear the facsimile signature of one or more of said officers. Said bonds, notes and certificates of indebtedness shall not be sold for less than their par value. They may recite that they are issued pursuant to this act, and such recital shall be conclusive evidence of their validity and of the regularity of their issuance. The validity of such bonds, notes or certificates of indebtedness shall not be affected by any invalidity in the making of the improvements for which they are issued or in the special assessments levied for such improvements.

§ 13. In all cases where, pursuant to the highway law, or to any other law, a street improvement or improvements shall be made or shall be about to be made in or upon a state, county or other highway in said village, and said village shall be required or permitted by law to pay a part of the cost thereof to the state of New York, or the county of Westchester, the said board of trustees may provide for the payment of the amount so required or permitted to be paid to the state or county in the same manner in which it is authorized by this act to provide for the payment of a street improvement in or upon a village street or other village highway. In all such cases the said board of trustees may assess the whole or any part of said amount upon property abutting upon the street improvement as herein provided, exclusive of so much of said amount, if any, as may be

Bonds, notes and certificates of indebtedness; denomination, interest, etc.

May recite this act; effect.

Validity of bonds, etc.

Provision for payments on account of state, county or other highways.

required by section one hundred and forty-two-a of the highway law or by this act to be borne by a street railway company, which latter portion of said amount shall be assessed upon such street railway company and its property; and the board of trustees may issue notes, bonds and certificates of indebtedness for the purpose of paying the said amount to be paid to the state of New York or the county of Westchester as herein provided for the issuance of such obligations in cases where street improvements are made under this act in or upon village streets. Assessments levied by said board of trustees for street improvements in or upon state or county highways shall be levied and collected in the same manner as other assessments herein provided for.

Construc-
tion of
lateral
sewer, gas
and water
pipes.

§ 14. When the trustees of said village shall determine to pave or re-pave or macadamize or re-macadamize any street, highway, avenue or public place, it shall be the duty of every owner of a lot or parcel along the line of any such street, avenue, highway or public place, to construct, or re-construct, lateral pipes for sewers, gas and water to the inside of the curb line fronting such lot or parcel of land, and in case such owner should fail or neglect to lay or re-lay or construct or re-construct such pipes within the time that shall be prescribed by the trustees, the said trustees shall cause the work to be done and the entire expense shall be a lien upon the said lot or parcel and shall be assessed, together with the assessment for paving or re-paving or macadamizing or re-macadamizing as provided in this act. Any gas or water company having any rights or privileges in the streets, must also on such notice as the trustees shall prescribe, and within the time fixed therein, construct or re-construct or lay or re-lay gas or water pipes or mains in the streets to be paved or re-paved or macadamized or re-macadamized; and it shall not be lawful to disturb, dig up or remove any such pavement, except upon consent of said trustees and upon such terms and conditions as they may impose, and the said trustees may enforce compliance with its rules, regulations, ordinances, or resolutions by punishing persons violating the same, by fine or imprisonment, or both.

Duty of
gas and
water com-
panies.

Disturb-
ance of
pavement.

L. 1896,
ch. 517
repealed.

§ 15. Chapter five hundred and seventeen of the laws of eighteen hundred and ninety-nine and the acts amendatory thereof are hereby repealed.

§ 16. This act shall take effect immediately.

CHAPTER 278

AN ACT to amend the prison law, in relation to property of deceased and escaped convicts.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Paragraph
added to
L. 1909, ch.
47, § 134.

Section 1. Section one hundred and thirty-four of chapter forty-seven of the laws of nineteen hundred and nine, entitled

"An act relating to prisons, constituting chapter forty-three of the consolidated laws," is hereby amended by adding at the end thereof a new paragraph, to read as follows:

Upon the death or escape of any convict before discharge or termination of sentence and in so far as possible as to all convicts heretofore so escaped or deceased, the agent and warden shall file with the superintendent of prisons and with the state comptroller a full and complete inventory of all property of such escaped or deceased convict, in the custody of the prison, unclaimed by the legal representatives of such escaped or deceased convict. After the expiration of one year from the date of such escape or decease, except in the case of an escaped convict recaptured, any moneys so unclaimed shall be paid into the state treasury to the credit of the general fund. Any personal property, other than money, remaining so unclaimed shall be sold at public or private sale as shall be determined by the superintendent of prisons and the money proceeds thereof paid into the treasury as above provided. A detailed statement of all moneys so paid into the treasury shall be made to the treasurer and to the comptroller at the time of payment as provided by the state finance law.

§ 2. This act shall take effect immediately.

CHAPTER 279

AN ACT to amend the domestic relations law, in relation to marriages.

Became a law March 25, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section six of chapter nineteen of the laws of nineteen hundred and nine, entitled "An act relating to the domestic relations, constituting chapter fourteen of the consolidated laws," as such subdivision was amended by chapter two hundred and sixty-six of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

L. 1909, ch. 19, § 6, subd. 3, as amended by L. 1915, ch. 266, amended.

3. Such former marriage has been dissolved pursuant to section seven-a of this chapter.¹

§ 2. Subdivision five of section seven of such chapter, preceding the last paragraph, is hereby repealed.

§ 7, subd. 5 repealed.

§ 3. Such chapter is hereby amended by adding thereto a new section to follow section seven, to be section seven-a, to read as follows:

§ 7a added.

§ 7-a. **Dissolution of marriage on ground of absence.** A party to a marriage may present to the supreme court a duly verified

¹ Subd. 3 formerly read: "Such former husband or wife has absented himself or herself for five successive years then last past without being known to such person to be living during that time."

petition showing that the husband or wife of such party has absented himself or herself for five successive years then last past without being known to such party to be living during that time; that such party believes such husband or wife to be dead; and that a diligent search has been made to discover evidence showing that such husband or wife is living, and no such evidence has been found. The court shall thereupon by order require notice of the presentation and object of such petition to be published in the same manner as required for the publication of a summons in an action in the supreme court where service of such summons is made by publication; such notice shall be directed to the husband or wife who has so absented himself or herself and shall state the time and place of the hearing upon such petition, which time shall be not less than twenty days after the completion of the publication of such notice; and if the court, after the filing of proof of the proper publication of said notice and after a hearing and proof taken, is satisfied of the truth of all the allegations contained in the petition, it may make an order dissolving such marriage.

§ 4. This act shall take effect immediately.

CHAPTER 280

AN ACT to amend the real property law, in relation to acknowledgments and proofs in the republic of Czecho-Slovakia.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 11
added to
L. 1909,
ch. 62,
§ 261.

Section 1. Section three hundred and one of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," as such section was last amended by chapter three hundred and ninety-five of the laws of nineteen hundred and sixteen, is hereby amended by adding thereto a new subdivision, to be subdivision eleven, to read as follows:

11. If within the republic of Czecho-Slovakia, or if within any of the territories and provinces comprising the republic of Czecho-Slovakia, it may also be made before a judge or clerk of a district court under the seal of such court or before a notary under the seal of his office and the seal of the district court of the district in which such notary resides.

§ 2. This act shall take effect immediately.

CHAPTER 281

AN ACT to amend the tax law, in relation to extending the time for the commencement of construction for the purpose of securing exemption from local taxation of buildings planned for dwelling purposes.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four-b of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter nine hundred and forty-nine of the laws of nineteen hundred and twenty, and amended by chapter four hundred and forty-four of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1909, ch. 62, § 4b, as added by L. 1920, ch. 949, and amended by L. 1921, ch. 444, amended.

§ 4-b. **Exemption of new buildings from local taxation.** The legislative body of a county, or the legislative body of a city with the approval of the board of estimate and apportionment, if there be one in such city, or the governing board of a town, village or school district may determine that until January first, nineteen hundred and thirty-two, new buildings therein, planned for dwelling purposes exclusively, except hotels, shall be exempt from taxation for local purposes other than for assessments for local improvements during construction and so long as used or intended to be used exclusively for dwelling purposes, or if a building of four stories or more in height, used exclusively for dwelling purposes above the ground floor, provided construction was completed since April first, nineteen hundred and twenty, or, if not so completed, that construction be commenced before April first, nineteen hundred and twenty-three,¹ and completion for occupancy be effected within two years after such commencement, or if² in course of construction³ on September twenty-seventh, nineteen hundred and twenty, within two years thereafter. The provisions of this section shall not be construed to preclude such legislative bodies from granting exemptions which do not exceed the exemption authorized by this section. Any such limited exemption heretofore granted by any such legislative body, intending or purporting to act under the authority conferred by this section is hereby legalized, validated and confirmed. ⁴For the purposes of this section, construction shall be deemed commenced when the plans have been filed with the proper authority and excavation actually and in good faith begun. The owner or architect may file with the authority with

¹ Formerly read: "nineteen hundred and twenty-two."

² Word "now" omitted.

³ Remainder of sentence formerly read: "before September twenty-seventh, nineteen hundred and twenty-two."

⁴ Remainder of section new.

whom the plans are filed a statement in writing setting forth the date of filing plans and the date when excavation was actually commenced; and said authority shall forthwith cause said facts to be investigated. If said statement on such investigation is found to be true, said authority shall thereupon issue to such owner or architect a certificate setting forth the date when the plans were filed with him, and the date when excavation was actually commenced, which certificate shall be conclusive evidence of the date when construction was commenced, for the purpose of obtaining the benefits of this section.

§ 2. This act shall take effect immediately.

CHAPTER 282

AN ACT to amend the county law, in relation to raising money in counties to improve agricultural conditions.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 16, § 12, subd. 28a, as added by L. 1917, ch. 281, and amended by L. 1919, ch. 499, amended.

Section 1. Subdivision twenty-eight-a of section twelve of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties constituting chapter eleven of the consolidated laws," as added by chapter two hundred and eighty-one of the laws of nineteen hundred and seventeen, and last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

Appropriations by supervisors for agricultural and home conditions improvement.

28-a. The board of supervisors of any county may from time to time appropriate and pay out for the general improvement of agricultural and home conditions and for the support and maintenance of county farm and home bureaus to conduct demonstration work in agriculture and home economics and for the employment by said bureaus of county agricultural agents and home demonstration agents, and for any other purpose which the board of supervisors shall deem proper and which, in its judgment, will encourage and promote the general improvement of agricultural and home conditions therein, such sums as it may deem proper, and may raise money for such purpose by a tax on real and personal property in the county. The board of supervisors may by resolution, duly passed, direct the county treasurer to pay out moneys from such appropriation upon the order of the treasurer of the county association hereinafter provided for upon his giving a proper receipt therefor, and the chairman of the board of supervisors may be authorized to enter into an agreement to pay such funds in regular instalments in advance, and such agreement shall be sufficient authority in the hands of said

Tax.
Moneys,
how paid.

¹ Previously amended by L. 1918, ch. 301.

county treasurer to pay out such moneys, provided that this money shall be expended under an agreement to be entered into between the county association and Cornell University,² for the co-operative management of said farm and home bureaus and the proper supervision of said county agricultural agent and home demonstration agent; and provided that the co-operative relations therein established shall continue until either party to the agreement shall notify the other party that it wishes to terminate the agreement. Such a notification shall be in writing and shall be served at least six months preceding any action taken to annul the agreement. After receiving such notice co-operative relationships between said parties shall cease at the expiration of the six months' period of notice providing reconsideration or request for continuance is not made by the party issuing notification of desire to continue work under the provisions of this agreement. On or before the first day of December in each year and at any other time when requested by the board of supervisors the officers of such county association shall report in writing to the board of supervisors a detailed statement of its work and transactions for the year ending November thirtieth, and for any other period which the board of supervisors may request and in such form as said board may direct.

Reports
to super-
visors.

For the purpose of this act there shall be recognized in each county of the state which shall qualify under this act to co-operate with the state college of agriculture³ in conducting the work provided for in this act, a public county association, known as a county farm and home bureau association, or as county farm bureau association or county home bureau association, as the case may be,⁴ if only one division is organized, herein referred to as the county association, when the form of organization has been duly approved by Cornell University,² provided that only one such association shall be recognized in each county. The county association thus created may adopt such regulations and by-laws governing its procedure in the work as are not inconsistent with the provisions of this act.

Associa-
tions in
each
county.

There shall be annually appropriated out of any moneys in the treasury not otherwise appropriated, for the purpose of assisting in the organization and contributing toward the support of county farm and home bureaus in the various counties of the state the sum of six hundred dollars (\$600) per annum for each county in the state for agricultural work and the sum of five hundred dollars (\$500) per annum for home economics work for each county in the state which shall qualify as required by this section; provided, however, that no such bureau shall be entitled to receive any money so appropriated for agricultural work unless the county in which the same is organized shall appropriate

Appropriation; conditioned on appropriation by county.

² Words "Cornell University" substituted for words "the state leader of county agents."

³ Words "and the department of farms and markets," omitted.

⁴ Words "or county home bureau association, as the case may be," new.

Co-operation of contiguous counties.

General supervision of work.

Moneys, how paid.

In effect July 1, 1922.

through its board of supervisors or otherwise raise and provide at least eighteen hundred dollars per annum for the support and maintenance of such work, nor shall any county be entitled to receive any money for home economics work unless said county shall appropriate through its board of supervisors or otherwise raise and provide not less than fifteen hundred dollars per annum for the support and maintenance of such work; provided further that two contiguous counties may co-operate and be regarded as one county for the purposes of this act, and the boards of supervisors in such counties may appropriate for the purpose of jointly conducting the work provided for in this act when the plans for such co-operation are approved by Cornell University;⁶ and in addition there shall be annually appropriated such sums of money as may be necessary for the proper and necessary supervision thereof.

⁶ The general supervision of the co-operative agricultural and home economics extension and development work herein provided for shall be under the direction of Cornell University as agent for the state in the administration of the New York state college of agriculture, and the trustees thereof are hereby authorized to make rules and regulations for the organization and conduct of such county farm and home bureaus. The moneys appropriated pursuant to this subdivision shall be paid by the state treasurer on the warrant of the comptroller on vouchers approved by the treasurer of Cornell University.

§ 2. This act shall take effect July first, nineteen hundred and twenty-three.

CHAPTER 283

AN ACT to amend the county law, in relation to the recording and effect of certificates of the honorable discharge of certain soldiers, sailors and marines.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1908, ch. 18, § 161a amended.

Section 1. Section one hundred and sixty-one-a¹ of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows:

§ 161-a. **Recording certificates of honorable discharge.** A certificate, issued since April sixth, nineteen hundred and seventeen, of the honorable discharge of any soldier, sailor or marine from the military, naval or marine service of the United States, may

¹ Words "Cornell University" substituted for words "the state leader of county agents."

² Following paragraph materially amended.

³ As added by L. 1920, ch. 214.

be recorded in any county, in the office of the county clerk. It shall be the duty of the county clerk to record any such certificate, upon presentation thereof without the payment of any fee.¹ This section also applies to the county of New York. For any purpose for which such original honorable discharge may be required in the state of New York, a certified copy of such record shall be deemed sufficient and shall be accepted in lieu thereof.

§ 2. This act shall take effect immediately.

CHAPTER 284

AN ACT to amend the civil practice act, in relation to judgments of partition of real property affecting adversely the title, interest or claim of the people of the state of New York, based upon tax deeds to the state.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten hundred and twenty of the civil practice act is hereby amended to read as follows:

§ 1020
amended.

§ 1020. **People of state as defendant.** The people of the state may be made a party defendant to an action for the partition of real property, in the same manner as a private person,¹ provided, however, that any judgment affecting adversely the title, interest or claim of the people of the state of New York based upon a tax deed, shall provide in effect as follows:

1. That the people of the state of New York shall have a lien upon such real property or part thereof described in such tax deed, prior and superior to all other liens, (a) for the amount of the unpaid taxes not adjudged illegal in such action for which such real property was sold or liable to be sold in the first instance and for which such tax deed was issued, together with fees, charges and interest; (b) for the amount of the unpaid taxes not adjudged illegal in such action for which such real property was subsequently sold or liable to be sold, together with fees, charges and interest; (c) for the amount of all taxes, fees and charges admitted or paid by the people upon such real property to the date of the entry of such judgment, together with interest thereon from the date of such admission or payment.

2. That the people of the state of New York may foreclose such lien as a mortgage on real property is foreclosed, provided such lien remains unpaid after the expiration of one year from the entry of such judgment.

§ 2. This act shall take effect immediately.

¹ Words "without the payment of any fee" new.

¹ Remainder of section new.

CHAPTER 285

AN ACT for the relief of certain towns in the county of Essex.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Account of
unpaid
taxes for
1915-1920.

To be
added to
assess-
ment-roll
for 1922.

Relay
and col-
lection.

Section 1. The supervisor of each of the towns of Chesterfield, Crown Point, Elizabethtown, Essex, Jay, Keene, Lewis, Minerva, Moriah, Newcomb, North Elba, North Hudson, Saint Arnold, Schroom, Ticonderoga, Westport, Willsboro and Wilmington, in the county of Essex, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen and nineteen hundred and twenty, upon lands of residents, non-residents and corporations in his respective town which should have been returned to the comptroller pursuant to section one hundred of the tax law and the statutes in that case made and provided, and shall add to the assessment-roll of his town for the year nineteen hundred and twenty-two such of said taxes as have not heretofore been admitted or paid by the comptroller, describing them as relieved taxes of such year.

§ 2. The board of supervisors of Essex county shall cause to be reassessed and levy upon the lots or parcels of land described in each such account the taxes so added, and shall direct the collection thereof, and any of such taxes which shall not have been paid to the town collector of the town wherein levied shall be returned by him to the county treasurer and state comptroller as though they were originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

§ 2. This act shall take effect immediately.

CHAPTER 286

AN ACT to amend the insurance law, in relation to group health and accident policies.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
33, § 107,
subd. (k)
(1), as
added by
L. 1913,
ch. 165,
amended.

Section 1. Subdivision (k) (1) of section one hundred and seven of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter one hundred and fifty-five of the laws of nineteen hundred and thirteen, is hereby amended to read as follows: ¹

¹ Subdivision materially amended.

Subd. (k) (1). Nothing in this section, however, shall apply to or affect any policy of liability or workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof, or to any employer whether a corporation, copartnership, association or individual, or to any police or fire department, underwriters' corps, salvage bureau, or to any association of fifty or more members having a constitution or by-laws and formed in good faith for purposes other than that of obtaining insurance, where not less than seventy-five per centum of the members, or employees are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

§ 2. This act shall take effect immediately.

CHAPTER 287

AN ACT to amend the insurance law, in relation to the powers of casualty insurance companies.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section seventy of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," such subdivision having been last amended by chapter four hundred and eight of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1909, ch. 33, § 70, subd. 3, as amended by L. 1921, ch. 408, amended.

3. Insuring any one (a) against loss or damage resulting from accident to or injury suffered by an employee or other person, and for which the person insured is liable, ² (b) against loss or damage to property caused by animals or by any vehicle drawn by animal power, and for which loss or damage the person insured is liable, ³ and (c) against any other loss or damage to property and for which the insured is liable, except loss or damage caused by risks or hazards of the kinds mentioned in subdivisions seven, nine, ten and eleven of this section.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1909, ch. 302; L. 1910, ch. 637; L. 1911, ch. 324; L. 1912, ch. 232; L. 1913, ch. 304; L. 1914, ch. 204; L. 1920, ch. 563.

² Word "and" omitted.

³ Remainder of subd. 3 new.

CHAPTER 288

AN ACT to amend the public health law, relative to the practice of nursing.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 49,
§ 252, as
amended
by L. 1920,
ch. 742,
amended.

Section 1. Section two hundred and fifty-two of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as last amended by chapter seven hundred and forty-two of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

§ 252. **Waiver of examination for nurses.** The regents of the University of the State of New York may upon the recommendation of said board of examiners, or upon evidence satisfactory to said regents, waive the examination of any persons possessing the qualifications mentioned in section two hundred and fifty, who shall have been graduated before, or who were in training on the twenty-fourth day of April, nineteen hundred and twenty, and shall thereafter be graduated, and of such persons now engaged in the practice of nursing and who have had three years' experience in the practice of nursing, two of which have been spent in practice in a hospital prior to nineteen hundred and twenty, or an equivalent for such hospital experience, such equivalent to be determined by the state department of education and the state commissioner of health, who make application in writing for such certificate prior to January first, nineteen hundred and twenty-three.²

§ 252a, as
added by
L. 1920,
ch. 742,
amended.

§ 2. Section two hundred and fifty-two-a of such chapter, as added by chapter seven hundred and forty-two of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 252-a. **Waiver of examination for attendants.** The regents of the University of the State of New York may upon evidence satisfactory to said regents waive the examination of any persons possessing the qualification mentioned in section two hundred and fifty-a of this article who shall have been graduated before or who were in training on the twenty-fourth day of April, nineteen hundred and twenty, and shall thereafter be graduated, and of such persons now engaged in caring for the sick and who have had at least two years' experience in caring for the sick prior to nineteen hundred and twenty and of such persons having less than two years' experience prior to nineteen hundred and twenty, who shall submit to a practical examination given by the board of examiners to demonstrate his or her fitness to care for the sick

¹ Previously amended by L. 1913, ch. 390.

² Formerly read: "nineteen hundred and twenty-one."

as a trained attendant, and who make application in writing for certificate to practice as a trained attendant prior to September first, nineteen hundred and twenty-two.¹ Every such application shall be accompanied by a written certification by three licensed physicians and one registered nurse acquainted with the applicant, of the facts in respect to applicant's experience and qualifications to practice as a trained attendant.

§ 3. This act shall take effect immediately.

CHAPTER 289

AN ACT to amend the public service commission law, in relation to destruction of records.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven of chapter four hundred and eighty of the laws of nineteen hundred and ten, entitled "An act in relation to public service commissions, constituting chapter forty-eight of the consolidated laws," as last amended by chapter one hundred and thirty-four of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows:

L. 1910,
ch. 480,
§ 7, as
amended
by L. 1921
ch. 134,
amended.

§ 7. **Secretary to the commissions; minutes as evidence; destruction of certain records.**² 1. Each commission shall have a secretary to be appointed by it and to hold office during its pleasure. It shall be the duty of the secretary to keep a full and true record of all proceedings of the commission, of all books, maps, documents and papers ordered filed by the commission and of all orders made by a commissioner and of all orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents at its office. The record of the proceedings of the commission kept by the secretary as aforesaid and printed as the minutes of the commission and the printed minutes of the board of rapid transit railroad commissioners, transit construction commissioner and public service commissions of the first and second districts shall be prima facie evidence of the proceedings of the commission and of such commissions, commissioner and commissioners, respectively. Under the direction of the commission the secretary or such officer as the commission shall appoint or designate shall be its chief executive officer, shall have charge of the organization of its office, shall assign its employees to the several divisions or bureaus and

¹ Formerly read: "July first, nineteen hundred and twenty."

² Previously amended by L. 1913, ch. 597; L. 1919, ch. 520.

³ Words "destruction of certain records" new. Division of § 7 into subdivisions new.

superintend the performance of their duties; and perform such other duties as the commission may prescribe. The secretary shall have power and authority to administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission. The secretary shall designate, from time to time, one of the clerks appointed by the commission to perform the duties of secretary during his absence and, during such time, the clerk so designated shall at the office possess the powers of the secretary of the commission.

2.³ Under the direction of the public service commission the secretary of that commission may destroy such certificates of inspection of boilers, specification cards for boilers, notices of embargoes placed, notices of delays in furnishing cars, contracts filed under circular number six dated August sixteenth, nineteen hundred and seven, telephone accident reports and general correspondence as are no longer necessary for the purposes of the commission; but no such record, report or correspondence shall be destroyed until it shall have been on file for at least five years.

§ 2. This act shall take effect immediately.

CHAPTER 290

AN ACT to validate warrants for the collection of taxes, generally, and legalize proceedings taken under such warrants.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Warrants
and pro-
ceedings
legalized.

Section 1. No warrant, heretofore annexed to the annual tax-rolls by the board of supervisors of the respective counties of the state, for the collection of taxes, shall be held to be invalid or illegal, by reason of the omission to attach thereto the seal of such county, and all proceedings, including levy and sale, had thereunder, for the collection of such taxes, shall be construed and determined as though such seal was duly attached.

Pending
actions.

§ 2. This act shall not affect any action or proceeding now pending in any court.

§ 3. This act shall take effect immediately.

³ Subd. 2 new.

CHAPTER 291

AN ACT to provide for the submission of a proposition to the electors of the water district number two, of the town of Harrison, in the county of Westchester and state of New York, for the acquisition of a site, by private purchase or condemnation, and the construction, decorating and equipment of a fire house in said water district, and, if such proposition is adopted, authorizing the issue of not to exceed seventy-five thousand dollars of bonds to provide for said acquisition of said site and the erection and construction of said building, and the furnishing of same.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within six months after this act shall take effect the town board of the town of Harrison shall, upon petition of at least one hundred duly qualified electors of water district number two, of the town of Harrison, in the county of Westchester and state of New York, as provided for in the town law, submit to the electors of said water district number two, of the town of Harrison, at a special election called and held in the manner provided for in this act, the following proposition: "Shall water district number two of the town of Harrison acquire a site, by private purchase or condemnation, and erect and construct, and furnish a new fire house in said district, at a cost of not to exceed seventy-five thousand dollars?" The said town board may determine when such election shall be held. Notice of the time and place of such election, together with copy of the proposition to be submitted to the electors shall be published for three consecutive weeks in one or more newspapers published in said town of Harrison, immediately preceding the week in which such election shall be held, and shall be posted in at least five public places in said water district for the same period of time. Such election shall be held at the school house in school district number six of said town of Harrison, located on the corner of Halstead avenue and Sumner street, in said town, and the votes of said electors shall be canvassed by three special election officers appointed by said town board. The vote on such proposition shall be by ballot. To entitle a person to vote upon such proposition he or she must have the qualifications prescribed by section fifty-three of the town law for an elector at a town meeting.

§ 2. If such proposition shall be adopted the said town board may select and acquire by private purchase or condemnation a suitable site, engage the service of a competent architect and provide for the construction of a new fire house at such place in said water district number two, in the town of Harrison, in the county of Westchester, and state of New York, as said town board may determine; and to defray the cost of the acquisition of such land that may be required, the cost of having the title to the same searched and guaranteed, and, if necessary, the cost of condemning the same, the cost of the employment of such architect

Submission of proposition authorized.

Notice and conduct of election.

Qualifications of voters.

Construction of fire house on adoption of proposition.

Bond issue.

Bonds; de-
nomina-
tion, exe-
cution, etc.

May recite
this act;
effect.

Tax for
payment.

and the construction of said building, and the furnishing of same, may cause bonds to be issued in a total amount not to exceed seventy-five thousand dollars. Such bonds shall be in denomination of one thousand dollars, shall be signed by the supervisor of the town and attested by the town clerk who shall attach the corporate seal of the town thereto, and shall be paid in certain equal annual installments, the first of which shall become due not more than eighteen months after the date of same. Such bonds shall bear such rate of interest not exceeding six per centum per annum, and to be in such form as said town board may approve and shall be sold at public auction by the supervisor of the town of Harrison for not less than their par value. Such bonds shall be consecutively numbered from one to the highest number issued, and the town clerk of the town shall keep a record of the number of each bond, its date, amount, rate of interest, when and where payable, and the name of the purchaser or holder thereof, and the person to whom the same is issued. Each of said bonds may contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of the validity of said bond and the regularity of the issuance thereof.

§ 3. The bonds authorized and issued as in the preceding two sections provided shall be a charge upon the town of Harrison and the taxable property therein, and the amount necessary to pay such bonds and the interest thereon as the same becomes due shall be assessed, levied and collected upon the taxable property within the bounds of said water district number two of the town of Harrison. The town board shall annually transmit a statement of the amount due for the payment of said bonds and the interest thereupon to the board of supervisors of the county of Westchester, or such other board, body of officials, or official, as may from time to time perform the duties and functions of the present board of supervisors of the county of Westchester, and such board, body, or official shall levy such sums upon the taxable property within the bounds of said water district number two as now existing, or hereafter extended, and the amount of such taxes shall be extended against such taxable property in a separate column of the annual tax roll. Such taxes when collected shall be paid to the supervisor of the town and by him applied in payment of such bonds and the interest thereon.

§ 4. This act shall take effect immediately.

CHAPTER 292

AN ACT to provide for the location, creation, acquisition and improvement of parks, parkways and boulevards in and by the county of Westchester; authorizing the borrowing of money and issuing of bonds therefor; providing for the management and maintenance thereof; creating a commission therefor, and defining the powers and duties of such commission.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of the county of Westchester shall within thirty days after this act becomes a law appoint nine citizens and residents of said county, who when so appointed shall constitute a board of commissioners under the name and style of "Westchester county park commission." Three of such commissioners shall hold office for a term to expire June first, nineteen hundred and twenty-three; three for a term to expire June first, nineteen hundred and twenty-four; and three for a term to expire June first, nineteen hundred and twenty-five. In case any of the persons so appointed shall not undertake the office of said commission, or in case of a vacancy occasioned by the expiration of term of office or otherwise, such vacancy shall be filled by a majority vote of the said board of supervisors and the persons so appointed shall hold office for the term of three years from the date of the expiration of the term of office of the commissioner whose office he is appointed in place thereof, except that when a person is appointed to a vacancy occurring before the term of office in which the vacancy occurs shall have been completed such person so appointed shall hold his office for the remainder of the said term not completed by his predecessor and until another shall be appointed in his place. No member of said commission shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual disbursements and expenses in performing the duties of his office.

Board of
commissioners.

§ 2. Each commissioner shall before entering upon the duties of his office take and subscribe the oath prescribed by the constitution of the state, which oath shall be filed in the office of the county clerk of Westchester county. The clerk of the board of supervisors of Westchester county shall call a meeting of said park commissioners to be held at the court house, in the city of White Plains, New York, within ten days after their appointment for the purpose of organization. Such park commissioners shall thereupon proceed to organize and at such meeting, or at any subsequent meeting, select a president, vice-president, secretary and treasurer, who shall, except the secretary, be members of the commission. Such commission may adopt a seal and a majority of such commissioners shall constitute a quorum for the transaction of business. The commission may employ such coun

Commissioners:
oath, organization,
officers, etc.

sel as may be necessary and may also employ experts and other assistants and incur such other expenses as may be found necessary within the amounts appropriated by the board of supervisors of said county. The commission shall keep a record of its proceedings which together with its approved maps, adopted plans, documents and acts shall be a public record and be open to public inspection at such times and under such reasonable regulations as the commission shall determine. The said commission shall maintain a suitable office where its maps, plans, papers and records shall be kept and for the purposes of this act. Such commission is empowered to employ and at pleasure discharge such officers and employees as it may deem necessary and may determine their duties and fix their compensation to be paid as other county salaries are paid, provided, however, that the total of such salaries shall be within the amount appropriated by the board of supervisors for that purpose.

Misdemeanor for commissioners, etc., to be interested in contracts, etc.

Commission; powers and duties.

Acquisition of real estate.

It shall be a misdemeanor for any member of said park commission or any clerk, architect, engineer, superintendent or other assistant appointed by said park commission, or for any officer of said county to be in any way interested, directly or indirectly, in furnishing any of the materials, supplies or labor for the erection or construction of any building or improvement contemplated by the provisions of this act, or in any contract which said park commission is empowered by this act to make.

§ 3. Such commission is hereby authorized to control and manage any and all parks, which are now owned or have been acquired or may be hereafter acquired whether in fee or in trust by the county of Westchester and may consider, investigate and recommend for selection and location such additional real estate in the county of Westchester as may in its opinion be proper and desirable to be reserved, set apart or acquired for one or more parks, parkways or boulevards, including the approaches thereto, streets connecting therewith and the relocation of existing streets. Such commission may for the purposes of this act by its members, officers, agents or employees enter upon any real estate or interest therein for the purpose of making such surveys, examinations and investigations as it may deem necessary in the performance of its duties. Such commission may, if possible, make option agreements at a reasonable consideration for the acquiring by purchase of the real estate recommended or to be recommended for park purposes, but such option agreements shall not be exercised unless or until the board of supervisors has approved the taking of such real estate and made an appropriation therefor. Such commission shall from time to time report such considerations and investigations in detail with any optional agreements it may have made, including the estimated cost of such proposed parks, parkways or boulevards to the board of supervisors, together with any preliminary map or description showing the real estate to be selected and located for park purposes, together with any other data relating thereto. Thereafter the board of supervisors at any regular, special or monthly meet-

ing may by resolution authorize the acquiring of any part or all of such property for one or more of the purposes of this act. Said board of supervisors shall thereupon estimate the cost of same and make immediately available the necessary appropriation therefor and from time to time authorize the issuing of certificates of indebtedness for the same to be payable out of the proceeds of bonds to be issued as hereinafter provided. In case it is found that the actual cost will exceed such estimated cost the board of supervisors of said county may make such additional estimates of cost as it deems necessary and proper and shall appropriate and make immediately available any such additional estimates of cost in the same manner as the original estimate of cost. The term "park" or "parks" as used in this act, unless specifically limited shall be deemed to include all public parks, parkways, beaches, open spaces and boulevards; and also entrances and approaches thereto and streets, roads, docks and bridges between, to, in, through or connecting such park or parks or parts thereof and such other rights and appurtenances as the park commission shall utilize for the purposes of this act, whether the same be now or hereafter owned or acquired in fee or otherwise by the county of Westchester.

"Parks" defined.

§ 4. The park commission after the approval by the board of supervisors, and before acquiring by condemnation any of the real estate, rights or interests therein for the purposes set forth in this act shall cause to be prepared and shall approve a map or maps of such lands so to be acquired or taken as approved by the board of supervisors with a certificate, showing such approval endorsed thereon and signed by the president and secretary of the commission or by a majority of the commissioners and shall then cause such map or maps to be filed in the office of the county clerk of the county of Westchester. Any map or maps so approved and filed may be amended by a subsequent map or maps approved and filed as was the original and thereafter all proceedings shall be had in reference to the last amended map. Said map or maps or amended map or maps shall show the real estate to be taken or acquired and shall also distinguish between the parcel or parcels the fee of which is to be acquired, and the parcel or parcels wherein a lesser estate or an easement in perpetuity or for temporary use are to be acquired. The certificate of approval of the said map or maps by the said park commission shall be a sufficient determination of the estate to be acquired therein. The acquiring, improving and embellishment of parks under the jurisdiction of the park commission or lands acquired as in this act provided, together with the maintenance thereof and all incidental proceedings in connection therewith for the purpose of carrying out the provisions of this act are hereby declared to be for a county purpose.

Maps.

Proceedings hereunder declared for county purpose.

§ 5. The park commission may agree with the owner or persons interested in any real estate or easement laid down or shown on said map, or maps so approved, either for the acquiring of the fee thereof, a lesser estate or an easement therein as specified on

Fee or lesser title or easement may be acquired.

said map or maps as to the compensation to be paid to such owner or owners or persons interested, for the taking or using and occupying such real estate or interest therein and the compensation so agreed upon shall be paid out of the moneys made available as in this act provided. The title to said lands shall be taken in the name of the county of Westchester.

Title in
name of
county.

" Real es-
tate " de-
fined.

The term "real estate" as used in this act shall be construed to signify and embrace all uplands, lands under water, the water of any lake, pond or stream of water or mill rights or privileges and any and all easements and incorporeal hereditaments and every estate, interest and right, legal and equitable in lands or water, including terms for years and liens thereon by way of judgment, mortgage or otherwise and also all claims for damage for such property. It shall also be construed to include all real property or interest therein heretofore or hereafter acquired or used for railroad, railway, highway or other public or municipal purposes, provided that persons or corporations owning such property or claiming interest therein which is used as a public utility shall be allowed the perpetual use for such purpose, or of such other real estate to be acquired for the purposes of this act as will afford practical route or location for such railroad, highway or other public utility purpose and commensurate with and adapted to its needs and provided also that such persons or corporations shall not directly or indirectly be subject to expense, loss or damage by reason of change in such route or location, but such expense, loss or damage shall be borne in like manner as the expenses incurred in carrying out the provisions of this act.

Relocation
when used
for public
utility
purpose.

Acquisition
by condem-
nation proce-
dings.

§ 6. If the said park commission shall be unable to agree with the owner or owners of or other persons having an interest in real estate shown on said map or maps so filed with the county clerk as aforesaid, or when by reason of legal incapacity, absence or inability of said park commission or its representatives to meet with or consider the question of the compensation to be paid to such owner or owners or other persons and no agreement can be made for the purchase of said real estate so deemed necessary for the purposes of this act, the same shall be acquired by condemnation proceedings instituted by the park commission in the name of the county of Westchester in the manner provided by law for the condemnation of real property for public purposes, except as in this act otherwise provided. In case commissioners to ascertain the compensation to be made to the owners of property to be taken in proceedings for the condemnation of real estate shall be appointed, the county of Westchester shall on the filing of the oaths of said commissioners in the office of the county clerk of the county of Westchester be and become seized of all those parcels of real estate described in the petition and which are on the map or maps shown as parcels that the fee or an easement therein is to be acquired in the proceeding in which said commissioners were appointed and the said park commission on behalf of the said county may immediately or at any time or times thereafter take possession of the same, or of any part or

When
county to
become
seized.

parts thereof and the said park commission, or any person acting under its authority may enter upon and occupy in perpetuity all the parcels of real estate described in such petition and shown on said map or maps wherein the fee is sought to be acquired and may enter upon, through or under such parcels so shown on said map or maps in which a lesser estate or an easement is to be acquired for the purposes as in this act provided. In any such proceeding any municipal corporation may and it hereby is authorized by its governing body to consent to the taking of such property for a nominal consideration. The order confirming the report of such commissioners shall provide for interest on the awards from the date of the filing of the oaths of the commissioners and shall state the amount of costs and allowances, if any, to be paid. A copy of such report shall be filed with the park commission which shall within four months thereafter, or if appealed from, then within four months after the filing with the said commission of a copy of any final order or judgment entered on such appeal, authorize the approval of claims therefor, which claims shall be filed with the comptroller for payment by the county treasurer after audit by him out of moneys made available as in this act provided. The commission at the time of authorizing the approval of such claims shall fix a date for payment, provide for interest on such claims to such date and give written notice to the party or parties to whom the award is payable, or to their attorney, or attorneys, that the award with interest will be paid at a place certain on a given date and thereafter no interest shall be due or payable on account of such award. A complete statement as to the proceeding, parcel number, date of the order and such other information as may be necessary shall be set forth on each of such claims filed as aforesaid. All such drafts drawn as aforesaid shall be turned over by the comptroller to the park commission for delivery to the claimants upon receipt of the proper instruments therefor. Claims for awards to unknown owners, absentees, those under legal disability and those uncertain as to whom to be paid shall be verified by the president of the board of commissioners and the warrant for same shall be turned over to the county treasurer to be deposited by him, subject to the further order of the supreme court of Westchester county. In case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons or bodies incorporate in whose favor the same shall be reported, his, her, or their executors, administrators or successors at any time or times after application first made by him, her or them to the treasurer of the county of Westchester for payment thereof may sue for and recover the same with lawful interest as aforesaid and the costs of suit in any proper form of action against the county of Westchester in any court having cognizance thereof and in such action it shall be sufficient to declare generally for so much money due to the plaintiff by virtue of this act for real estate taken or acquired for the purposes herein mentioned. The order confirming the report of said commissioners

Right of
entry.

Municipality may
consent to
taking.

Interest on
awards;
costs.

Report to
be filed.

Payment of
claims.

Action to
recover
unpaid
claims.

with proof of the right and title of the plaintiff and plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action.

Compensation of commissioners of appraisal in condemnation proceedings.

§ 7. In all condemnation proceedings instituted pursuant to the provisions of this act, each commissioner of appraisal, upon the confirmation of the report or other determination of the proceeding, shall be entitled to receive in full compensation for his services as such commissioner of appraisal, and in bar of all other claims for compensation and expenses, an allowance as may be fixed and awarded by the court as herein provided, not exceeding five dollars for every full hour upon each day upon which he attends a meeting of said commissioners of appraisal and is actually and necessarily employed in the performance of the duties imposed upon said commissioners of appraisal at the offices provided for such commissioners of appraisal, or at the meeting of the commissioners of appraisal to view the premises, provided that such compensation shall not be paid until it shall have been awarded and fixed by order of the court upon five days' notice to the park commission and to the attorney representing such park commission, and upon proof by affidavit showing the nature and extent of the services rendered, the dates of rendering services and the number of hours and parts of an hour necessarily occupied upon each date. A copy of such proof shall be served with the notice of taxation.

Payment into court of award when owner under legal disability, absent, etc.

§ 8. In all condemnation proceedings instituted pursuant to the provisions of this act when an owner in whose favor an award shall have been made in a final order or in a report of commissioners of appraisal which has been confirmed by the court is under legal disability or absent from the county of Westchester and when the name of the owner shall not be set forth or mentioned in said final order or in the report of the commissioners of appraisal or when the owner although named in said report or final order cannot upon diligent inquiry be found, or where there are adverse or conflicting claims to the money or any part of it to be paid as compensation for the property taken, the county of Westchester shall pay so much of such award into court as the court may direct to be secured, disposed of, invested and paid out as the court may direct and the court may determine who is entitled to the same and direct to whom the same shall be paid and may in its discretion order a reference to ascertain the facts on which such determination and direction are made; and such payment shall be valid and effectual in all respects as if made to the owner; and in default of such payment into court, the county of Westchester shall be and remain liable for such award with lawful interest thereon from the day upon which title to the real property for which said award is made vested in the county of Westchester. When an award shall be paid to a person not entitled thereto, the person to whom it ought to have been paid may sue for and recover the same with lawful interest and costs of suit as so much money had and received to his order by the person to whom the same shall have been so

Action when award paid to party not entitled.

paid. Payments of an award to a person named in the report or a final order as the owner thereof if not under legal disability shall in the absence of notice in writing to the comptroller of the county of Westchester of adverse claims thereto protect said county from any liability to any other person or persons. In case of the pledge, sale, transfer or assignment of an award by the person entitled to receive the same by virtue of the report of the commissioners of appraisal or by a final order of the court, or any other order of the court the instrument evidencing such pledge, sale, transfer or assignment acknowledged or proved as instruments are required to be acknowledged or proved for the recording of transfers of real property shall be filed in the office of the comptroller of the county of Westchester who shall endorse on the said instrument its number and the day, hour, month and year of its receipt and file a copy with the park commission. If an assignment of an award be contained in an instrument recorded in an office in which instruments affecting real property are by law required to be recorded, a certified copy thereof may be filed in the office of said comptroller in the place of the original and a copy filed with the park commission. Every such instrument not so filed shall be void as against any subsequent pledgee, or assignee in good faith and for a valuable consideration from the same pledgor or assignor, his heirs, administrators or assigns of the same award or any portion thereof, but assignment of which is first duly filed in the office of said comptroller. Payment to the assignee or pledgee shown to be entitled to the award by said record in the office of the comptroller shall protect the county of Westchester from any liability to any other person or persons.

When
county
protected.

Pledge,
sale or
assign-
ment of
award.

§ 9. In addition to any appeal or appeals which may be authorized by law to be taken from any judgment or order entered or which may be entered in any condemnation proceeding instituted herein pursuant to the provisions of this act the county of Westchester through the park commission or any party or person affected by said proceedings and aggrieved by the order fixing the compensation of said commissioners of appraisal may appeal therefrom to the appellate division of the supreme court. Such appeal shall be taken and heard in the manner provided by the civil practice act and the rules and practices of the said court in relation to appeals from orders in special proceedings and such appeal shall be heard and determined by such appellate division upon the merits both as to matters of law and fact. But the taking of such appeal shall not operate to stay the proceedings under this act with respect to the order entered on the motion to confirm the said report or reports of said commissioners of appraisal.

Appeal
from order
fixing com-
pensation
of com-
missioners
of ap-
praisal.

§ 10. The park commission shall have the power from moneys or property on hand as in this act provided, or moneys appropriated for that purpose by the board of supervisors to make available for use as a public park or parks all such real estate, easements and rights which are or may come under its jurisdiction

Commis-
sion may
make parks
available
for certain
enumerated
purposes.

as in this act provided and to develop, improve and embellish such park or parks and erect, construct or build thereon structures and other improvements and appurtenances as to it shall seem proper for any one or more of the following purposes, all of which are hereby declared to be for a public and county purpose, namely: public health, public welfare, education, instruction, interest, pleasure, recreation, athletics or amusement.

Commission may take property by gift, devise or bequest.

§ 11. The park commission shall have the right on behalf of the county of Westchester to take in fee or otherwise by gift or devise lands or rights and interest therein for the purpose of this act, or to receive by gift, contribution or bequest money or other property to be used in acquiring or improving such park or parks, all of which gifts, devises or bequests shall be to and in the name of the county of Westchester, which is hereby authorized by and through the park commission to accept the same for any one or more of the purposes as in this act provided, or to reject the same. All such moneys so given or bequeathed shall, unless otherwise provided by the terms of such gift or bequest, be deposited with the county treasurer and be subject to the order of the commission.

Grants of land under water.

§ 12. The park commission on behalf of the county of Westchester may and it hereby is authorized to apply to the proper authorities of the state of New York for a grant or grants of land under water, adjacent to any uplands owned by the county of Westchester and under the direction and control of the park commission and the said land board, or other state officials authorized to make and execute grants of land under water for and on behalf of the state of New York shall and they hereby are authorized and directed to release to the county of Westchester any and all rights of the state therein, such grants to be subject to such conditions and restrictions as to it or them shall seem proper, but for a nominal consideration.

Commission may let property acquired until needed.

§ 13. Whenever the county of Westchester shall become vested with the title of real estate pursuant to and for the purposes and provisions of this act, it shall be lawful for the said park commission to let from year to year any buildings and the grounds attached thereto, which may be within the bounds of the real estate so taken and until the same shall be required for the laying out, regulation and improvement of the real estate so taken and the said park commission may sell any building, improvement and other materials within the boundary line of the lands so taken and belonging to the county, which in its judgment shall not be required for the purposes of the said park or parks and the proceeds of such leases and sales shall be deposited with the treasurer of the county to the credit of the said county. Said park commission shall also have the right to construct, reconstruct, complete, alter or repair any buildings or structures, or demolish or remove the same to carry out the purposes of this act. To carry out the public purposes as in this act provided, the park commission notwithstanding the provisions of any general or special law to the contrary, shall have the exclusive right and

May sell, construct, repair, etc., buildings.

Lease of concessions.

authority to let, license or grant to any person or party for such period of time not exceeding three years such building or buildings, structure, or structures, rights, privileges or concessions in, to and upon any park or parks under its jurisdiction and under such rules, regulations and restrictions as to said commission shall seem just and proper. Unless the sum to be paid for such right, privilege or concession is paid in cash, the same shall not be granted except and until such person or party shall give such reasonable security in such amount as to the commission shall seem proper and reasonable. All income from licenses or leases received by the park commission shall be deposited with the county treasurer of Westchester county, to the credit of the county.

§ 14. The park commission shall have the sole and exclusive control and management of all the streets and highways and bridges within the limits of any park under its jurisdiction, with the right and power to alter or discontinue any or all of such streets, highways and bridges and all streets, highways, parkways, or boulevards taken over as in this act provided shall be built, maintained and kept in order and repaired by and under the direction of the park commission. No railroad, trolley road, bus line, telephone or telegraph line, or other public utility shall have the right to pass over, through, or under any property controlled by the park commission as in this act provided, except by a written consent granted by a majority of the members of such park commission, by resolution duly adopted and then only under such regulations and restrictions as to the park commission shall seem proper, but the commission shall have the right to grant to the county of Westchester, or any governmental agency thereof or to any municipal corporation therein, or any governmental agency thereof as the term "municipal corporation" is defined in the general municipal law, a license or an easement for any public purpose upon such terms and conditions and under such regulations and restrictions as the commission shall deem just and proper, and in addition thereto may grant licenses or easements to individuals, copartnerships and corporations, including municipal corporations, to construct sewers, lay water and gas mains and electric conduits within and across such property.

Control of
highways
and
bridges.

Grant of
easements
for public
utility
and other
public
purposes.

§ 15. The park commission shall make no contract for the performance of any work or for the supplying of any material, or both, unless there is money on hand applicable to such contract or money for that purpose has been appropriated by the board of supervisors, nor shall any such contract involving the expenditure of more than one thousand dollars be awarded unless bids or proposals therefor have been received, or the commission shall by a two-thirds vote determine that it is impracticable to receive bids or proposals therefor.

Restrictions on
contracts
and purchases.

The commission shall have the right on the letting of any contract to reject any or all the bids. All contracts or purchases involving a sum of less than one thousand dollars shall be let or made in such manner as to the commission shall seem for the best interests of the county.

Right of
commission
to bring
actions
and im-
pound ani-
mals.

§ 16. The park commission shall have the right and it hereby is authorized and empowered to bring or maintain in the name of the county of Westchester any action or proceeding necessary to carry out the purposes of this act, also any action to recover damages for the breach of any agreement growing out of the management, improvement or government of the park or parks or for damages for injuries to any of the property appertaining thereto and it shall have the power and right to seize and impound cattle and other animals roaming in, on, or through such park or parks.

Commis-
sion may
make and
enforce
rules for
use of
parks.

§ 17. The park commission shall, notwithstanding the provisions of any general or special law to the contrary have the exclusive power to adopt and enforce rules, regulations or ordinances governing the use of said park or parks as defined herein, and traffic in and through the same and to provide that the violation of any one or more of such rules, regulations or ordinances shall constitute the crime of a misdemeanor and that on conviction a person so offending may be punished by a fine of not exceeding one hundred dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment, or it may enforce the observance of any one or more of such rules, regulations or ordinances by prescribing a penalty not exceeding fifty dollars in any one case to be recovered in a civil action in any court having jurisdiction thereof, which action shall be brought in the name of the county of Westchester. Such rules, regulations or ordinances, or any amendments or additions thereto shall not be effective until the same shall have been published in at least three newspapers printed and published in the county of Westchester once each week for three weeks. In any action or proceeding, such rules, regulations or ordinances, or any amendments or additions thereto shall be deemed sufficiently proved by presenting a copy thereof duly certified by the secretary or acting secretary of the commission to the effect that the same is a true copy as then in force by reason of being duly adopted by the commission and that there is on file in the office of said commission due proof of the publication thereof as in this section provided.

Additional
estimates
of cost of
improve-
ments; ap-
propria-
tion there-
for.

§ 18. The board of supervisors at any regular, special or monthly meeting upon the request or requisition of the park commission either at the time of estimating the cost of acquiring the property or at any one or more subsequent time or times may estimate or make additional estimates of the cost of the improvements to be made to any one or more of the parks under the jurisdiction of the park commission and make available the necessary appropriation therefor and from time to time authorize the issuance of certificates of indebtedness for the same, to be payable out of the proceeds of bonds to be issued as hereinafter provided. All claims lawfully incurred by the commission under and pursuant to the terms and provisions of this act shall be first approved by the park commission and paid as are other county claims. The commission shall annually in the month of April, file with the board of supervisors a written report of its proceedings and a statement of all its receipts and disbursements.

Payment
of claims.

Annual
report.

§ 19. The board of supervisors of the county of Westchester are hereby authorized and empowered to issue from time to time bonds of said county in the same manner as other county bonds are issued, to take up the certificates of indebtedness issued or authorized to be issued as provided in this act, provided, however, that such board may provide for the payment of any such bonds within fifty years from their respective dates of issue. All bonds and certificates of indebtedness authorized to be issued under this act shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and the regularity of their issue. The board of supervisors of the county of Westchester may and they hereby are authorized and empowered to renew, extend, or issue new certificates of indebtedness to redeem any certificates of indebtedness issued under and pursuant to the terms of this act.

Bond is-
sues au-
thorized.

Bonds to
recite this
act; effect.

Renewal of
certificates
of indebt-
edness.

§ 20. It shall be the duty of the board of supervisors of said county to cause to be raised annually in each fiscal year from the time this act takes effect by tax upon the taxable property in said county in the same manner as other taxes are levied and collected, a sufficient sum to pay the interest upon said certificates of indebtedness and bonds when and as the same shall become due and payable and also to raise by tax upon the taxable property of said county the moneys necessary to pay the principal of said bonds as the same shall become due. It shall also be the duty of said board of supervisors in like manner to cause to be raised annually in each fiscal year a sum sufficient to pay all charges and expenses legally chargeable against the county of Westchester, for the care, maintenance and operation of said parks in the manner and for the purposes for which the same are created as specified in this act.

Tax for
payment.

§ 21. All acts and parts of acts in conflict herewith are hereby repealed. If any portion of this act shall be declared unconstitutional, the remainder shall stand, and the portion declared unconstitutional shall be excluded.

Inconsist-
ent acts;
portion de-
clared un-
constitu-
tional.

§ 22. This act shall take effect immediately.

CHAPTER 293

AN ACT to amend the conservation law, in relation to fish which may be taken with nets. Superintendent of inland fisheries.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and seventy-one of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve

L. 1911, ch.
647, § 271,
as added
by L. 1912,
ch. 314, and
amended
by L. 1914,
ch. 197,
amended.

and last amended by chapter one hundred and seven of the laws of nineteen hundred and fourteen,¹ is hereby amended to read as follows:

§ 271. Fish which may be taken with nets; superintendent of inland fisheries. When permitted by the commission lake trout, whitefish, pickerel, pike, pike perch, shad, herring, striped bass, smelt or ice fish, and sturgeon of all kinds, of the size limit and during the open season therefor as prescribed in part seven of this article, and all fish not protected by law, may be taken by nets in waters of the state, in any number or quantity. For the purpose of supervising the taking of fish with nets the commission is empowered to designate² a superintendent of inland fisheries at a salary of not to exceed thirty-five hundred dollars³ per annum, and his actual and necessary expenses while in the performance of his official duties, not to exceed one thousand dollars.

§ 2. This act shall take effect immediately.

CHAPTER 294

AN ACT to amend the highway law, in relation to the purchase of real estate or the erection of a building for the purpose of housing and storing road machinery.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 49, as amended by L. 1921, ch. 402, amended.

Section 1. Section forty-nine of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter four hundred and two of the laws of nineteen hundred and twenty-one⁴ is hereby amended to read as follows:

§ 49. Machinery, tools and implements. The town superintendent may, with the approval of the town board, purchase for the use of the town, stone crushers, steam rollers, motor trucks, scarifiers, concrete mixers, traction engines, road machines for grading and scraping, tools and other implements, subject to the limitations prescribed in section ninety-four, which shall be paid for from moneys levied and collected or from the proceeds of bonds issued and sold for such purposes as provided in this chapter. No contract for the purchase of stone crushers, steam rollers, motor trucks, scarifiers, concrete mixers, or traction engines shall be valid, unless the district or county superintendent shall have approved thereof and endorsed his approval upon such contract. All road machines, stone crushers, steam rollers, motor trucks,

¹ Previously amended by L. 1913, ch. 508.

² Words "from the protectors" omitted.

³ Formerly read "twenty-five hundred dollars."

⁴ Previously amended by L. 1917, ch. 349; L. 1918, ch. 329.

scarifiers, concrete mixers, or traction engines, tools and other implements owned either by the town or the highway districts therein, shall be used by the town superintendent in such manner and at such places in such towns as he shall deem best. They shall be under the control of the superintendent and be cared for by him at the expense of the town. The town superintendent shall annually make a written inventory of all such machinery, tools and implements, indicating each article and stating the value thereof, and the estimated cost of all necessary repairs thereto, and deliver the same to the supervisor of the town on or before October thirty-first, in each year. He shall at the same time file with the town clerk his written recommendations as to what machinery, tools and implements should be purchased for the use of the town, and the probable cost thereof. The town superintendent shall provide a suitable place for housing and storing all machinery, tools and implements owned by the town and cause the same to be stored therein, when not in use. The town board, at the request or with the approval of the town superintendent, may purchase real estate in the name of the town or erect a building on real estate owned by the town for the purpose of housing and storing such machinery, tools and implements but the total cost thereof shall not exceed fifteen hundred dollars⁵ without the vote of a town meeting. The town superintendent may also with the approval of the town board, sell any such machinery, tools and implements, which are no longer needed by the town, or which are worn out or obsolete, or may exchange the same for new machinery, tools and implements. If sold, the proceeds shall, under the direction of the town board, be applicable to the purchase of the machinery, tools and implements mentioned in subdivision three of section ninety-four of this chapter. Where there is an incorporated village constituting a separate road district, wholly or partly in a town which has purchased a stone crusher, steam roller, motor truck, scarifier, concrete mixer, or traction engine, the town board of such town may permit the use thereof by such village upon such terms as may be agreed upon.

§ 2. This act shall take effect immediately.

CHAPTER 295

AN ACT to amend the military law, in relation to officer in charge of armory building in New York city.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-six-b of chapter forty-one of the laws of nineteen hundred and nine, entitled "An

L. 1909, ch.
41, § 186b,
as added

⁵ Formerly read: "five hundred dollars."

by L. 1921,
chs. 587,
595, re-
pealed;
new § 186b
added.

act in relation to the militia, constituting chapter thirty-six of the consolidated laws," as added by chapters five hundred and eighty-seven and five hundred and ninety-five of the laws of nineteen hundred and twenty-one, is hereby repealed and a new section one hundred and eighty-six-b inserted, to read as follows:

§ 186-b. **Officer in charge and control of armory building in New York city.** The senior officer in command of the largest organization in point of numbers actually quartered in an armory building in New York city in which two or more armories are located shall be the officer in charge and control of such building and of its approaches, entrances, drill sheds, hallways, basements, storage spaces and all parts thereof not actually used as an armory by another organization quartered in such building as provided by law.

§ 2. This act shall take effect immediately.

CHAPTER 296

AN ACT to amend the penal law, in relation to placing garbage on highways.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
88, § 1424
amended.

Section 1. Section fourteen hundred and thirty-four¹ of the penal law is hereby amended to read as follows:

§ 1434. **Placing injurious substances on roads.** Whoever wilfully shall throw, drop or place, or shall cause or procure to be thrown, dropped or placed, in or upon any cycle path, avenue, street, sidewalk, alley, road, highway or public way or place, any glass, tacks, nails, pieces of metal, brier, thorn or other substance which might injure any animal or puncture any tire used on a vehicle, or which might wound, disable or injure any person using such way, or wilfully deposits within the limits of any highway, any garbage or other rubbish,² shall be guilty of a misdemeanor, and on conviction be fined not less than five nor more than fifty dollars.

§ 2. This act shall take effect immediately.

¹ As amended by L. 1916, ch. 321.

² Words "or wilfully deposits within the limits of any highway, any garbage or other rubbish," new.

CHAPTER 297

AN ACT to amend the prison law, in relation to parole of mentally defective convicts.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and fourteen of chapter forty-seven of the laws of nineteen hundred and nine, entitled "An act relating to prisons, constituting chapter forty-three of the consolidated laws," as last amended by chapter one hundred and ninety-eight of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

L. 1909, ch. 47, § 214, as amended by L. 1919, ch. 198, amended.

§ 214. **Release on parole of prisoners on indeterminate sentence.** If it shall appear to said board of parole for state prisons, upon an application by a convict for release on parole as hereinbefore provided, that there is reasonable probability that such applicant will live and remain at liberty without violating the law, then said board may authorize the release of such applicant upon parole, and such applicant shall thereupon be allowed to go upon parole outside of said prison walls and inclosure upon such terms and conditions as said board shall prescribe, but to remain, while so on parole, in the legal custody and under the control of the agent and warden of the state prison from which he is so paroled, until the expiration of the maximum term specified in his sentence as hereinbefore provided, or until his absolute discharge as hereinafter provided. ² The said board may also parole a male convict into the custody of the superintendent of the state institution for mental defectives at Napanoch, and a female convict into the custody of the superintendent of the division for mentally defective women at Bedford Hills, who shall remain therein subject to the provisions of the mental deficiency law, unless returned to prison as provided in this article. Nothing herein contained shall prevent the parole board from paroling or discharging inmates subject to parole at any time, and as of any time after the expiration of any minimum term, upon such other conditions not incompatible with the welfare of society as they may deem advisable. The board of parole shall, in granting such parole, annex a condition to the effect that if any such convict shall, during the period between the date of his release by reason thereof and the date of the expiration of the maximum term for which he was sentenced, be convicted of any felony, committed in the interval as aforesaid, he shall, in addition to the sentence which may be imposed for such felony and before beginning the service of such sentence, be compelled to serve in the prison or penitentiary in which he may be confined for the felony for

¹ Previously amended by L. 1918, ch. 334.

² Following sentence new.

which he is so convicted, the remainder of the maximum term of his sentence, without commutation, unless sooner released on parole or absolutely discharged by the board of parole of state prisons, but he may, however, earn compensation in reduction of the remainder of such term.

§ 248
amended.

§ 2. Section two hundred and forty-eight of such chapter is hereby amended to read as follows:

§ 248. **Application of article to convicts in reformatories or state institutions for mental defectives and hospitals for insane criminals.**³ The provisions of this article shall apply to any convict who may have been transferred from any of the prisons or penitentiaries to any reformatory of this state, or to any state institution for mental defectives, or to a state hospital for insane criminals,⁴ whose sentence or sentences equals or equal not less than one year. And the superintendent or chief officer of such reformatory, institution and hospital⁵ may and shall perform any of the acts which may or shall be done by any board mentioned in this article.

§ 3. This act shall take effect immediately.

CHAPTER 298

AN ACT for the relief of the town of Schroon, in the county of Essex.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Account
of unpaid
taxes for
1914-1920.

Section 1. The supervisor of the town of Schroon, in the county of Essex, shall cause to be made a correct account of the unpaid taxes of the years nineteen hundred and fourteen, nineteen hundred and fifteen, nineteen hundred and sixteen, nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen hundred and nineteen and nineteen hundred and twenty, assessed against lands in Guise's patent, Shonnard's patent and in lots two hundred and twenty-six and two hundred and twenty-seven, Brant Lake Tract, and lots one, twenty-eight, fifty-two, fifty-three, fifty-four, seventy-seven and seventy-nine, Schroon tract, described as "A strip of land of an average width of fifteen chains sixteen links east and west, bounded west by the lake shore," which taxes were returned by the treasurer of Essex county to the comptroller and were rejected by the comptroller on the ground that these lands are covered by the maps made for Underwood and Ostrander of cottage lots on the east side of Schroon lake and should have been assessed by the lot numbers as shown on said maps, and shall, after due notice and opportu-

To be
added to
assess-
ment roll
for 1922.

³ Words "or state institutions for mental defectives and hospitals for insane criminals," new.

⁴ Words "or to any state institution for mental defectives, or to a state hospital for insane criminals," new.

⁵ Words "institution and hospital" new.

nity for a hearing is given parties affected, add to the assessment roll of said town of Schroon, for the year nineteen hundred and twenty-two, describing them thereon as relieved taxes of such year, such of said taxes as have not been paid duly apportioned pro rata against said cottage lots.

§ 2. The board of supervisors of Essex county shall cause to be reassessed and levied upon the lots or parcels of land described in said account the taxes so added by the supervisor, and shall direct the collection thereof, and any of said taxes which shall not have been paid to the town collector shall be returned by him to the county treasurer and by said treasurer to the state comptroller with the same effect as though originally levied as taxes for the year nineteen hundred and twenty-two against the lands affected.

Relief
and
collection.

§ 3. This act shall take effect immediately.

CHAPTER 299

AN ACT to amend chapter four hundred and three of the laws of eighteen hundred and sixty-eight, entitled "An act to establish and maintain a free bridge between Sag Harbor and North Haven, in the town of Southampton, Suffolk county, and to make such bridge a county charge," in relation to transferring control of such bridge to the board of supervisors of Suffolk county.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter four hundred and three of the laws of eighteen hundred and sixty-eight, entitled "An act to establish and maintain a free bridge between Sag Harbor and North Haven, in the town of Southampton, Suffolk county, and to make such bridge a county charge," is hereby amended to read as follows:¹

L. 1568,
ch. 403,
§ 1
amended.

§ 1. The bridge between Sag Harbor and North Haven, in the town of Southampton, Suffolk county, shall continue to be a free bridge and public highway, and to be kept and maintained at the place aforesaid at the expense of the county of Suffolk.

Bridge to
be free;
main-
tenance.

§ 2. Section two of such chapter, as amended by chapter three hundred and eighty-one of the laws of eighteen hundred and seventy-eight, is hereby amended to read as follows:

§ 2. as
amended
by L. 1878,
ch. 381,
amended.

§ 2. The board of supervisors of Suffolk county shall annually cause to be raised and levied upon said county, in the same manner as other county charges are raised and levied, such a sum of money as they shall deem necessary to keep in repair and maintain the said bridge, and such money, when collected, shall be² expended, and such bridge kept in repair and maintained, under

Tax for
main-
tenance.

Direction
of main-
tenance.

¹ Section 1 materially amended.

² Remainder of § 2 formerly read: "paid to the commissioners of highways of the town of Southampton to be expended upon said bridge."

the direction of such board of supervisors, or a committee of its members thereto duly authorized.

Disposition
of unex-
pended
moneys.

§ 3. Unexpended moneys, if there be any, now in the hands of local authorities of the town of Southampton, heretofore provided by the county of Suffolk for the repair and maintenance of the bridge described in section one of such chapter, except the amount necessary to pay obligations heretofore incurred or for work or material heretofore contracted for, by such local authorities, shall be paid by them into the treasury of such county, to be available for expenditure under section two of such chapter as amended by this act.

§ 4. This act shall take effect immediately.

CHAPTER 300

AN ACT to amend the code of criminal procedure, in relation to the court of general sessions in the county of New York.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§§ 52,
53, 55
amended.

Section 1. Sections fifty-two, fifty-three and fifty-five of the code of criminal procedure are hereby amended to read, respectively, as follows:

§ 52. **Division of court.** The court of general sessions of the city and county of New York is divided into ¹as many parts as the judges of said court shall by rule or order prescribe.

§ 53. **Parts; by whom held.** Any one of the ²parts of the court of general sessions of the city and county of New York may be held by a judge of the court of general sessions. A justice of the supreme court may also hold it.

§ 55. **Accommodation for courts and officers, etc.** The courts have the same power to direct suitable provisions to be made for their accommodation as is now possessed by the supreme court.

³The judges of the court of general sessions of the city and county of New York, may appoint a crier and must appoint a clerk, not more than seventeen deputy clerks, six interpreters, nine stenographers, eleven record clerks, nine chief court attendants, a warden to the regular grand jury, and two wardens to additional grand juries, each of which wardens shall hold his office during the pleasure of said judges, and three stenographers and typewriters for the office of the clerk of said court; and any person who has heretofore held the office and performed the duties of a deputy clerk in said court for more than one year is eligible for appointment as deputy clerk provided for in this section.

§ 2. This act shall take effect immediately.

¹ Remainder of section formerly read: "six parts."

² Word "six" omitted.

³ Following sentence materially amended.

CHAPTER 301

AN ACT to amend the code of criminal procedure, in relation to additional grand juries in the county of New York.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The code of criminal procedure is hereby amended by adding after section two hundred and twenty-six a new section, to be two hundred and twenty-six-a, to read as follows: § 226a added.

§ 226-a. Additional grand juries in the county of New York. Such additional grand jury or grand juries as the public interest requires may be drawn for any term of the court of general sessions of the city and county of New York upon the order of a judge of said court.

§ 2. This act shall take effect immediately.

CHAPTER 302

AN ACT to amend chapter four hundred and twelve of the laws of nineteen hundred and seven, entitled "An act providing for the court of general sessions of the city and county of New York, its judges and officers," in relation to the number of parts and the number of judges in said court.

Became a law March 27, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter four hundred and twelve of the laws of nineteen hundred and seven, entitled "An act providing for the court of general sessions of the city and county of New York, its judges and officers," is hereby amended to read as follows: L. 1907, ch. 412, § 2 amended.

§ 2. The court of general sessions of the city and county of New York is hereby divided into ¹as many parts as the judges of said court shall by rule or order prescribe. Parts.

§ 2. Section seven of said act, as amended by chapter five hundred and twenty-six of the laws of nineteen hundred and eleven, is hereby amended to read as follows: § 7, as amended by L. 1911, ch. 526, amended.

§ 7. There shall be nine ²judges of the court of general sessions of the city and county of New York, each of whom shall be designated "judge of the court of general sessions," and shall have the same powers, duties and jurisdiction in all respects as the present judges of the court of general sessions. The present judges of the court of general sessions are hereby continued in Judges; number, powers, duties, etc.

¹ Remainder of section formerly read: "five parts."

² Formerly "seven."

office until the expiration of the terms for which they have been elected. There shall be elected at the general election in November, 'nineteen hundred and twenty-two judges of the court of general sessions. If a vacancy occurs in the office of the judge of the court of general sessions by the death or resignation of such a judge, it shall be filled at the general election held next after the happening thereof, or if by the expiration of the term of such a judge, at the general election next preceding the date of the expiration of the said term. Each person chosen judge of the court of general sessions shall enter upon the duties of his said office on the first day of January next succeeding his election and shall hold office for a term of fourteen years. Each judge of the court of general sessions shall receive a yearly salary of seventeen thousand five hundred dollars for his services as such judge, which shall be paid in equal monthly installments. No other compensation shall be allowed to any such judge.

§ 3. This act shall take effect immediately.

CHAPTER 303

AN ACT to amend the code of criminal procedure, in relation to professional and corporate bondsmen.

Became a law March 28, 1922, with the approval of the Governor, Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 554b
added.

Section 1. The code of criminal procedure is hereby amended by inserting therein a new section to follow section five hundred and fifty-four-a, to be section five hundred and fifty-four-b, to read as follows:

§ 554-b. **Professional bondsmen.** 1. Any person, firm or corporation in any court having criminal jurisdiction or in any criminal action or proceeding who shall for another deposit money or property as bail or execute as surety any bail bond who within a period of one month prior thereto shall have made such a deposit or given such bail in more than two cases not arising out of the same transaction and shall have charged a fee or other compensation therefor shall be deemed to be engaged in the business of giving bail.

2. The court or magistrate, or other public officer, concerned in the matter may examine under oath any proposed bondsman or depositor of security for bail, or the officer of any corporation proposing to execute a bail bond, or to make such deposit, as to the indemnity, if any, deposited or otherwise provided directly or indirectly against loss by reason of said deposit or bail bond and as to the fee charged for the giving of said bond, and in its

* Remainder of sentence formerly read: "nineteen hundred and seven three judges of the court of general sessions."

discretion or his discretion may refuse to accept such bond or deposit if satisfied that any portion of such security has been feloniously obtained by the defendant, or that the provisions of this section have been in any case violated, or that the person or persons indemnifying said corporation or personal bondsman shall have within a period of one month prior thereto given indemnification or security for like purpose in more than two cases not arising out of the same transaction and who is not duly licensed by the superintendent of insurance of the state of New York in accordance with the provisions of chapter thirty-three of the consolidated laws known as the insurance law.

3. No person, firm or corporation shall engage in the business of giving bonds in criminal cases without being duly licensed by the superintendent of insurance of the state of New York in accordance with said insurance law.

4. Every corporation engaging in such business in a city of the first class, shall procure a license for each of its employees and officers acting for it as required by the said insurance law and shall file with the district attorney of each county contained in said city or in which such city is contained, the chief city magistrate of the city of New York, and the clerks of the supreme and county courts and courts of general and special sessions of the city of New York, certified statements of the names of all persons so authorized to do such business, or to execute bail bonds in its behalf. Such license may be issued only by the superintendent of insurance of the state of New York in accordance with said insurance law, and each corporation or person engaging in such business of giving bail shall, before receiving such license, file a bond in a penalty of five thousand dollars for the faithful performance of its or his duty. No person shall be licensed as aforesaid until he has satisfied such superintendent of insurance of the state of New York that he is a person of good character and reputation and has never been convicted of any crime or offense, and to this end shall file in the office of said superintendent of insurance of the state of New York written evidence from those who know him as to character and reputation. The granting of a license in all such cases shall be discretionary with the said superintendent of insurance of the state of New York and such license shall be subject to revocation by him whenever he deems it advisable for the public interest and in accordance with said insurance law.

5. The premium or compensation for giving a bail bond or depositing money or property as bail shall in no case be greater than three per centum of the amount of such bond or deposit and any person or corporation charging or receiving, directly or indirectly, any greater compensation for making a deposit for bail or giving bail, or who shall act in such business as aforesaid without obtaining a license, or who shall accept any fee or compensation for obtaining a bondsman or bail bond shall be guilty of a misdemeanor and in addition thereto shall in any action brought to recover any such overcharge be liable to treble damages. Any

member of the bar having any financial interest by which he is to profit from the giving of bail shall be guilty of a misdemeanor.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 304

AN ACT to amend the banking law, in relation to the giving of notice of proposed amendments to the by-laws of credit unions.

Became a law March 28, 1922, with the approval of the Governor, Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
§ 473
amended.

Section 1. Section four hundred and seventy-three of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

§ 473. **Amendment of by-laws; approval of superintendent of banks.** The by-laws of a credit union may be changed or amended by a three-fourths vote of the shareholders present at any meeting; provided the proposed change or amendment shall have first had the approval of the superintendent of banks; and provided further, that notice of such meeting, with notice¹ of the proposed change or amendment, shall have been given to each shareholder as prescribed in the by-laws. A copy of any change or amendment thus adopted shall be filed in the office of the superintendent of banks within thirty days after its adoption. Any credit union deeming itself aggrieved by the refusal of the superintendent of banks to give his approval to a proposed change or amendment, may apply to any justice of the supreme court of the district wherein the credit union is located, upon notice to the superintendent of banks, for a review of such decision. Such justice shall review the decision of the superintendent and may overrule or set aside the action of the superintendent and approve such change or amendment. An approval thus obtained shall enable such credit union to make the change or amendment as approved.

§ 2. This act shall take effect immediately.

¹ Words "with notice" substituted for words "containing a true copy."

CHAPTER 305

AN ACT to amend chapter ninety of the laws of nineteen hundred and eighteen, entitled "An act to provide for a commissioner of records of the county of Bronx," in relation to records and index.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section one of chapter ninety of the laws of nineteen hundred and eighteen, entitled "An act to provide for a commissioner of records of the county of Bronx," as last amended by chapter eight hundred and twenty of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1918,
ch. 90,
§ 1,
subd. 2, as
amended
by L. 1920,
ch. 530,
amended.

2. It shall be the duty of said commissioner of records to examine into the arrangement and condition of the records, documents, books, maps and instruments deposited, filed or recorded in the office of the clerk, register and surrogate of the county of Bronx, and as to the condition and sufficiency of the indices of such records, documents, books, maps and instruments, and to do or cause to be done, as he may determine and direct, whatever may be necessary to provide for the restoration, preservation and convenient reference to, and such examination and use of such records, documents, books, maps, instruments and indices, as the public interest may require, and to cause copies thereof to be made whenever by reason of age, use and exposure or any casualty, such copies shall in his judgment be necessary. Whenever such a copy is made, and after it has been compared with the original it shall be certified by said commissioner, and shall thereafter be considered and accepted as evidence and for all other purposes, the same as the original would be, provided that the original shall be placed in a suitable enclosure by said commissioner, and preserved, properly indorsed and indexed, for such examination as may be directed by an order of court in any proceeding in which the accuracy of the copy is questioned. He shall also prepare or cause to be prepared copies of all *lis pendens*, filed and recorded in the office of the county clerk of New York county affecting property situated in the county of Bronx as now constituted which have been filed and recorded within ten years previous to the erection of Bronx county, and properly file and index the same in Bronx county in accordance with all existing laws and statutes.

Duties of
commis-
sioner;
copies;
disposition
of
originals.

He shall also prepare or cause to be prepared copies of all other maps, papers or documents filed or recorded in the counties of Bronx, New York or Westchester and properly index the same, whenever in his opinion such copies are necessary to complete the public records relative to property situated in Bronx

¹ Previously amended by L. 1918, ch. 299.

county. Whenever such copies have been made and after they have been compared with the originals or original records they shall be certified to by the custodian of said originals or original records and the commissioner of records of Bronx county and they then shall be filed and indexed in Bronx county in accordance with existing laws and statutes and thereafter such copies shall be considered and accepted as evidence for all purposes the same as the original would be. Relative to all² the original records now in³ New York county⁴ affecting property now in the county of Bronx, the commissioner of records may cause the same to be photographed and the photographic copies thereof shall then be filed and indexed in⁵ Bronx county with the same force and effect as if said records had been copied, transcribed, compared and certified as hereinbefore provided.

§ 2. This act shall take effect immediately.

Photo-
graphic
copies.

CHAPTER 306

AN ACT to amend chapter two hundred and fifty-six of the laws of nineteen hundred and seventeen, entitled "An act to incorporate Catholic charities aid associations," in relation to guardianship powers, and to change such title and the name of such associations.¹

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The title of chapter two hundred and fifty-six of the laws of nineteen hundred and seventeen, entitled "An act to incorporate Catholic charities aid associations," is hereby amended to read "An act to incorporate Catholic charities."

§ 2. Sections one, two and three of such chapter are hereby amended to read as follows:

§ 1. Not less than four nor more than twenty-five persons may file a certificate which shall contain:

1. The name of said association which shall be Catholic Charities with the addition of the name of the Roman Catholic diocese to which the association is attached.

2. A statement of the objects for which the association was formed, which will be to aid, support, and advise, and to conduct, by itself or in co-operation with any religious, charitable, benevolent, or educational corporation, association, society, institution, committee or any other agency, now or hereafter existing which shall be affiliated with the corporation hereby organized, any or all

¹ Word "all" new.

² Words "the office of the register of" omitted.

³ Words "for the years eighteen hundred and seventy-four to eighteen hundred and ninety-one and," omitted.

⁴ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

L. 1917,
ch. 256,
title
amended.

§§ 1-3
amended.

Corpo-
rators;
certificate
of incor-
poration.
Corporate
name.

Objects.

philanthropic work which shall be carried on within the state of New York or elsewhere, and which shall be primarily for the benefit of the Catholics within the respective dioceses, including the sustenance, shelter and relief of the needy and of such Catholics as are dependent and sick, crippled, deformed, chronic invalids, convalescents, infants, orphans, widows, aged, infirm, forsaken, deaf, dumb, blind, defectives or delinquents; the assistance of immigrants and their children; to induce the adoption by the community at large of such measures in the organization and administration of charity as may develop self-respect and increase the power of self-support of the poor; to place destitute, abandoned, delinquent, dependent and neglected children or wayward minors in homes and institutions, and for that purpose to receive Catholic children by surrender, adoption, commitment or otherwise; the moral, religious and physical training of the young and adolescent; the securing of employment for those in need thereof; the promotion of self-support and other cognate ends; but not excluding any other charitable or benevolent purposes not herein enumerated.

3. The name of the city or village in which the principal office of the association is to be located. Place of principal office.

4. The duration of such association. Duration.

5. The names and addresses of the persons who are to act as trustees for the first year. First trustees.

§ 2. The trustees of each such association shall be persons of the Roman Catholic faith, and the Roman Catholic archbishop or bishop or the administrator and the vicar-general designated of the respective diocese shall be at all times trustees. The selection of a person as a member of the association shall constitute him a trustee. Trustees.

§ 3. The said certificate shall be filed in the office of the county clerk of the county wherein the principal office of the association is to be established, and shall be filed only with the approval in writing annexed to it of the Roman Catholic archbishop or bishop of the respective diocese, and the approval also of a justice of the supreme court. Filing and approval of certificate.

§ 3. Section four of such chapter, as last amended by chapter three hundred and three of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: § 4. as amended by L. 1921 ch. 203, amended.

§ 4. When the said certificate shall be filed, such association shall have power, to act as guardian of the person and to act as guardian of the property, without a bond where the total value of the property does not exceed one thousand dollars; each such association shall have the power to take, hold and acquire, either by grant, devise, bequest, gift, purchase, lease or in any other manner whatsoever, absolutely or in trust, any property, real, personal or mixed, without limitation as to amount or value, except such limitation, if any, as the legislature may hereinafter impose upon it, and to hold, lease, sell, transfer, mortgage and convey or otherwise dispose of any property, whether real, personal or mixed, for the use and benefit of said corporation, and for any of its purposes. Powers.

Amended
certificate,
when in
effect.

§ 4. Upon the taking effect of this act and the filing of amended certificate setting forth the change in name of the corporation and the additional powers and authority herein given, said amended certificate when approved by the archbishop or bishop of the respective diocese and a justice of the supreme court and duly filed in the office of the clerk of the county in which the principal office is located shall be effectual and in force.

§ 5. This act shall take effect immediately.

CHAPTER 307

AN ACT to amend the county law, in relation to county appropriations for the support of the pedagogical department of a college or university within the county.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 46
added to L.
1909, ch.
16, § 12.

Section 1. Section twelve of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended by adding thereto, at the end thereof, a new subdivision, to be subdivision forty-six, to read as follows;

46. In order to provide an adequate number of teachers to be available for employment in the public schools in the county, the board of supervisors of any county in which is located a college or university having a department for fitting pupils to be teachers, and commonly known as a pedagogical department, may, from time to time, appropriate moneys for salaries of the teaching staff in such department, or to be applied toward the payment of such salaries, and may raise such moneys by tax on the taxable property within the county.

§ 2. This act shall take effect immediately.

CHAPTER 308

AN ACT to amend the conservation law, in relation to upland game birds.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 215a
added to
L. 1911, ch.
647.

Section 1. Chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, is hereby amended by inserting in

article six, after section two hundred and fifteen, a new section, to be section two hundred and fifteen-a, to read as follows:

§ 215-a. Upland game birds, open season, limit, special. In the counties of Sullivan, Orange and Westchester, grouse may be taken from October fifteenth to November thirtieth, both inclusive, and quail from November fifteenth to November thirtieth, both inclusive. A person may take not to exceed two grouse and four quail in any one day, and ten grouse and ten quail in the open season.

§ 2. This act shall take effect immediately.

CHAPTER 309

AN ACT to amend the conservation law, in relation to replacement of illegible or destroyed notices in private parks.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and sixty-one of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter four hundred and sixty-six of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 361. Notices in private parks. Notices or signboards not less than one foot square warning all persons against hunting or fishing or trespassing thereon for that purpose, shall be conspicuously posted on a private park not more than forty rods apart close to and along the entire boundary thereof. Posting of such notices will be sufficient provided that illegible or destroyed signs be replaced once a year during the months of March,² July, August or September, and there shall be so placed at least one notice or signboard on each side and one at each corner of such park and where an outer boundary runs along or under any waters, the nearest shore or banks within the park shall be deemed the boundary for the purpose of posting such notices or signboards. It shall also be considered due service of notice for trespass upon any person or persons, by serving them personally in the name of the owner or owners of such private park with a written notice containing a brief description of the premises, warning all persons against hunting or fishing or trespassing thereon.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1913, chs. 508, 746; L. 1917, ch. 492.

² Word "March" new.

L. 1911,
ch. 647,
§ 361, as
added by
L. 1912,
ch. 318,
and
amended
by L. 1921,
ch. 466,
amended.

CHAPTER 310

AN ACT to amend the conservation law, in relation to restriction of use of decoys in aid of taking water fowl.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 212, subd.
3, as added
by L. 1911,
ch. 282,
amended.

Section 1. Subdivision three of section two hundred and twelve of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, such subdivision having been added by chapter two hundred and eighty-two of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

3. Restriction of use of decoys.¹ No shooting device, or ¹ decoys, either artificial or living,² used in aid of taking water fowl as authorized by this and the preceding section, shall be placed upon the tidal waters of the state³ more than one hour before sunrise or left thereon more than one hour after sunset.

§ 2. This act shall take effect immediately.

CHAPTER 311

AN ACT to amend the conservation law, in relation to the taking of wild fowl on Long Island.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
647, § 177,
subd. 3, as
added by
L. 1918, ch.
290,
amended.

Section 1. Subdivision three of section one hundred and seventy-seven of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, such subdivision having been added by chapter two hundred and ninety of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

3. Wild fowl. Except in counties wholly or partly within the forest preserve,⁴ wild fowl may only be taken with the use of a shotgun fired at arm's length.

§ 2. This act shall take effect immediately.

¹ Word "artificial" omitted.

² Words "either artificial or living" new.

³ Words "tidal waters of the state" substituted for word "water."

⁴ Words "or on Long Island" omitted.

CHAPTER 312

AN ACT to amend chapter three hundred and twenty-six of the laws of eighteen hundred and eighty-seven, entitled "An act to incorporate the Chittenango Falls Park Association," in relation to authorizing the association to make a deed of gift of its real and personal property to the people of the state of New York, and authorizing the acceptance of such property for the purposes of a public park, to be known as "Chittenango Falls Park."

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four of chapter three hundred and twenty-six of the laws of eighteen hundred and eighty-seven, entitled "An act to incorporate the Chittenango Falls Park Association," as amended by chapter sixty-three of the laws of eighteen hundred and ninety-nine, is hereby amended to read as follows:¹

L. 1887, ch. 326, § 4, as amended by L. 1899, ch. 63, amended.

§ 4. Said corporation is hereby authorized to make, execute, and deliver a deed of gift and conveyance of the real property so acquired and now owned by said association, also of any of its personal property to the people of the state of New York, and the people of the state of New York hereby accept title to said real and personal property upon the express condition that the land therein conveyed shall be forever dedicated to and used exclusively for the purpose of a public park and natural scenic reservation to be known always as the "Chittenango Falls Park."

Acceptance by state of conveyance of property.

§ 2. Section five of such chapter is hereby amended to read as follows:¹

§ 5 amended.

§ 5. The university of the state of New York on behalf of the New York State Museum shall have control and jurisdiction of such park and real and personal property for the purposes described and referred to in the deed of gift and conveyance, unless the supreme court of the state of New York shall determine otherwise on good cause shown, upon application of the comptroller or some other duly authorized official of the state.

Control.

§ 3. This act shall take effect immediately.

CHAPTER 313

AN ACT to amend the domestic relations laws, in relation to voidable marriages.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section seven of chapter nineteen of the laws of nineteen hundred and nine, entitled "An act

L. 1909, ch. 19, § 7, subd. 1 amended.

¹ Section materially amended.

relating to the domestic relations, constituting chapter fourteen of the consolidated laws," is hereby amended to read as follows:

1. Is under the age of legal consent, which is eighteen years, provided that such nonage shall not of itself constitute an absolute right to the annulment of such marriage, but such annulment shall be in the discretion of the court which shall take into consideration all the facts and circumstances surrounding such marriage;

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 314

AN ACT to amend the education law, in relation to collector of taxes in union free school districts.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
21 (re-
vision of
L. 1910, ch.
140), § 254,
subd. 4
amended.

Section 1. Subdivision four^{1a} of section two hundred and fifty-four of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," such chapter having been amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended to read as follows:

Treasurer
and col-
lector in
certain
union free
school dis-
tricts.

4. Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall appoint a district treasurer, and a collector who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. ²In case the board of education appoints as its collector the receiver or collector of taxes of a village located wholly or in part within the boundaries of the school district, the board of education is authorized to pay such receiver or collector a fixed compensation to be agreed upon, in lieu of all fees or other charges to which a school district collector might be entitled, under the provisions of this chapter. All fees or other charges collected by such receiver or collector upon school taxes or assessments under the provisions of this chapter shall belong to the school district and shall be paid into the school district funds.

§ 2. This act shall take effect immediately.

¹ Remainder of subd. 1 new.

^{1a} Subd. 4 is again amended by L. 1922, ch. 328, post. The amendments here effected are not incorporated in subd. 4 as amended by said ch. 328.

² Remainder of subd. 4 new.

CHAPTER 315

AN ACT to amend the education law, relative to the qualifications of teachers.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five hundred and fifty of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, chapter one hundred and fifty-eight of the laws of nineteen hundred and eighteen, and chapter one hundred and twenty of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 550. **Qualifications of teachers.** No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.
2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in a state normal school of this state or in the state normal college.

3.¹ Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen.

§ 2. This act shall take effect immediately.

CHAPTER 316

AN ACT to amend the highway law, in relation to motor driven ambulances.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and eighty-one of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten and last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,^{1a} is hereby amended to read as follows:

¹ Subd. 3 materially amended.

^{1a} Previously amended by L. 1911, ch. 401; L. 1917, chs. 2, 769.

§ 281. **Definitions.** The term "motor vehicle" as used in this article, except where otherwise expressly provided, shall include all vehicles propelled by any power other than muscular power, except motor bicycles, motor cycles, traction engines, road rollers, fire wagons and engines, police patrol wagons, ambulances used exclusively² for charitable purposes and such vehicles as run only upon rails or tracks. The term "local authorities" shall include all officers of counties, cities, boroughs, towns or villages, as well as all boards, committees and other public officials of such counties, cities, boroughs, towns or villages. The term "chauffeur" shall mean any person operating or driving a motor vehicle, as an employee or for hire. The term "operator" shall mean any person, other than a chauffeur, who operates a motor vehicle in a county wholly included in a city. The term "state" as used in this article, except where otherwise expressly provided, shall also include the territories and the federal districts of the United States. The term "owner" shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. The term "public highway" shall include any highway, county road, state road, public street, avenue, alley, park, parkway or public place in any county, city, borough, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages. The term "omnibus," as used in this article, shall include any motor vehicle held and used for the transportation of passengers for hire.

§ 2. This act shall take effect immediately.

CHAPTER 317

AN ACT to amend the highway law, in relation to dealers' number plates for motor vehicles.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 284, subd. 1, as amended by L. 1921, ch. 586, amended.

Section 1. Subdivision one of section two hundred and eighty-four of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

1. Every person, firm, association or corporation manufacturing or dealing in motor vehicles, may, instead of registering each motor vehicle so manufactured or dealt in, apply to the tax com-

² Word "exclusively" substituted for word "principally."

¹ Section 284 added by L. 1910, ch. 374, and previously amended by L. 1911, ch. 491 and L. 1917, ch. 174.

Application for manufacturers' and dealers' number plates; fees.

mission for a single registration as manufacturer or dealer, as the case may be, and for number plates. The application shall be upon a blank to be furnished by the tax commission and shall be verified. It shall contain a brief description of each style or type of motor vehicle manufactured or dealt in by the applicant, including the character of the motor power stated in figures of horse power in accordance with the rating established by the Society of Automobile Engineers, and if an auto truck the combined weight and carrying capacity and if a motor vehicle adapted specially for use as an omnibus the seating capacity, and the name and residence, including county and business address, of such manufacturer or dealer. The application shall be accompanied with the payment of a registration fee of fifteen dollars. Two number plates of the same kind shall constitute a set.² The first set³ shall be furnished without the payment of any fee in addition to the registration fee. ⁴The fees for the other sets, not exceeding four, delivered with the certificates issued upon the application for registration, shall be five dollars each. The application shall be filed and registered in the office of the tax commission in the same manner as provided in this chapter for the registration of a motor vehicle. The tax commission shall thereupon assign a distinctive manufacturer's or dealer's registration number to the applicant and issue to the applicant a certificate of such registration with and for each separate set of number plates. Each certificate shall, in addition to the general registration number, recite any and all distinctive words, numbers or marks on the set of plates for which such certificate is issued. The tax commission shall also promptly deliver to the applicant, at a place within the state to be designated by him in the application, the set or sets of number plates to which he is entitled. The applicant shall be provided with the one set furnished with his application and such additional sets, not exceeding four, for which he shall have paid the fees above provided. Each number plate shall be of metal, and the manufacturer's or dealer's general registration number shall be set forth thereon together with the initials "N. Y." The size of a manufacturer's or dealer's plate and of the numerals of such general registration number shall be the same as for a number plate described in section two hundred and eighty-three. All of such plates may contain such other identification matter as the tax commission may deem proper. The provisions of subdivision two of section two hundred and eighty-three shall apply to such number plates. Additional number plates, in sets, with the corresponding certificates, may be obtained from the tax commission at any time, upon the payment of the fee above provided, except that⁵ the tax commission may limit the total number of dealers' plates to be issued to any par-

Registration number.

Certificate of registration.

Number plates: delivery, description.

Additional and duplicate number plates.

² Words " , and the fee for each set shall be five dollars; except that," omitted.

³ Words " of number plates " omitted.

⁴ Following sentence new.

⁵ Words " except that " substituted for word " but."

ticular dealer in excess of five, * and except that the fees for sets of dealers' plates in excess of five for the same dealer shall be ten dollars each. A duplicate of any manufacturer's or dealer's number plate, in case of loss or destruction, which fact shall be proven by the affidavit of the manufacturer or dealer, may be obtained from the tax commission for two dollars and fifty cents.

§ 2. This act shall take effect immediately.

CHAPTER 318

AN ACT to authorize the board of supervisors of Madison county to designate for construction a town and county highway through the incorporated village of Brookfield.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Designation for construction authorized.

Apportionment of cost.

Moneys for county's share, how provided.

Purpose of construction.

Share of village.

Type of construction.

Section 1. Notwithstanding any provision of statute, the board of supervisors of Madison county may, by a majority vote of all the supervisors elected thereto, and upon a petition of the town board of the town of Brookfield, and the village board of the village of Brookfield, designate for construction or improvement a highway or highways, through such village, at the joint expense of the county and village. The board of supervisors shall determine the portion of the cost of the construction and improvement of such highway to be borne by the county and the portion to be borne by the village. The portion to be borne by the village may be a village charge and the residue shall be a county charge. The amount to be borne by the county shall be provided by tax, to be levied upon the taxable property of the county and collected in the same manner as other county charges and shall be paid into the county treasury and the money so expended by the county shall not be included as a basis for state aid as provided by section three hundred and twenty-b of this chapter.¹ The board of supervisors may, in its discretion, appropriate and make immediately available from county funds, the portion of the moneys to be borne by the county. No such highway shall be so constructed or improved through the village of Brookfield, except to form a connecting link between two pieces of town highways constructed or improved pursuant to the provisions of sections three hundred and twenty, three hundred and twenty-a or three hundred and twenty-b of this chapter.¹ The construction of any such street or highway, or portion thereof, shall not be commenced until the portion to be borne by the village of Brookfield, as determined by the board of supervisors, shall have been deposited in the treasurer's office of such county. Such highway

* Remainder of sentence new.

¹ Highway law (L. 1909, ch. 30) evidently intended.

or highways when constructed and improved as herein provided, shall be of the same width and type of construction as town highways improved by the aid of the county outside the village, unless a greater width or different type of construction is desired by the village. The additional expense caused by the increased width or different type or both shall be borne by the village. Any such highway when completed and accepted by the board of supervisors shall be thereafter repaired and maintained by the village of Brookfield. Acceptance and maintenance.

§ 2. This act shall take effect immediately.

CHAPTER 319

AN ACT to amend the state printing law, in relation to legislative printing.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five of chapter six hundred and sixty-seven of the laws of nineteen hundred and seventeen, entitled "An act relating to state printing, constituting chapter fifty-eight of the consolidated laws," as last amended by chapter three hundred and thirty-seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: L. 1917, ch. 667 (revision of L. 1921, ch. 337), § 5 amended.

§ 5. **Legislative printing.** The legislative printing, constituting the first part hereinbefore described, shall include the bills, documents, except such documents as are by this chapter made a part of the department printing, calendars, journals, substitutes for engrossed bills and memorials of both houses of the legislature, together with the binding of such documents as the board may order under the provisions of this chapter.

There shall be printed, by the contractor, fifteen hundred copies of each bill and delivered within twenty-four hours after the receipt of the copy as follows: To the superintendent of documents of the senate, three hundred and seventy copies; to the superintendent of documents of the assembly, ten hundred and fifty copies; to the state library, two copies; to the state officers, fifty copies; and the remaining copies, gathered and collected in the order of their numbers with the indexes thereto, properly compiled and bound, shall be delivered by him as soon as possible after the close of the session as directed by the clerks of the senate and assembly; and there shall be printed at the same time by such contractor, in addition to the fifteen hundred copies of each bill heretofore provided for in this section, five hundred copies of any or all general senate bills, as designated by the clerk of the senate, and delivered to the superintendent of documents of the senate; also five hundred copies of any or all general assembly bills, as designated by the clerk of the assembly, and delivered to the superintendent of documents of the assembly;

also five copies of such substitutes for engrossed bills as shall be ordered by the clerks of the senate and assembly.

There shall be printed by the contractor, as promptly as possible after the receipt of the copy thereof, eight hundred and fifty copies of the journals, calendars, messages from the governor, reports of standing or select committees, which shall not include testimony taken by such committee, ¹ unless ordered by resolution of the house to which the committee reports, or if it be a joint committee by concurrent resolution. When printed, the same shall be delivered, folded, stitched and trimmed, as follows: To the superintendent of documents of the senate, one hundred and eighty copies; to the superintendent of documents of the assembly, two hundred and ninety copies; to the state officers, fifty copies; and the remaining copies, gathered and collected in the order of their numbers, and in volumes of not less than one thousand pages, with the indexes thereto, properly compiled and bound, shall be delivered as soon as possible after the close of each session as directed by the clerks of the senate and assembly. ² Every resolution authorizing printing shall contain a statement of the maximum cost of the proposed publication. Printing authorized by resolution of either house or by concurrent resolution shall not be commenced or progressed by the contractor unless or until an appropriation sufficient to defray the cost thereof is available.

§ 2. This act shall take effect immediately.

CHAPTER 320

AN ACT to amend the surrogate's court act, in relation to compensation of acting surrogate.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 15
amended

Section 1. Section fifteen of the surrogate's court act is hereby amended to read as follows:

§ 15. **Compensation of acting surrogate.** An officer, or a person appointed by the board of supervisors, or board of aldermen, who acts as surrogate of any county during a vacancy in the office, or in consequence of disability, as prescribed in this article, must be paid, for the time during which he so acts, a compensation equal pro rata to the salary of the surrogate; or, in a county where the county judge is also surrogate, to the salary of the county judge. The amount of his compensation must be audited and paid in like manner as the salary of the surrogate, or of the

¹ Remainder of sentence formerly read: "when printed for the use of the committee by order of either house."

² Remainder of section new.

county judge, as the case may be. Where an officer of the county performs the duties of the surrogate with respect to a particular matter wherein the surrogate is disqualified or precluded from acting, the supervisors of the county, or board of aldermen, must allow him such ¹ compensation as would ² equal pro rata ³ the salary of the surrogate to be audited and collected in the same manner; and the salary of his other office shall cease during the period in which he acts as surrogate. Should the pro rata salary of the surrogate be less than that of the office of the officer acting as surrogate, then such officer shall be entitled to the salary of his first office and to that alone.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 321

AN ACT to amend the tax law, in relation to meetings of the state tax commission with the supervisors and assessors of the counties.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seventy-three of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter three hundred and twenty-three of the laws of nineteen hundred and sixteen,⁵ is hereby amended to read as follows:

L. 1909, ch. 62, § 173, as amended by L. 1916, ch. 223, amended.

§ 173. **Official visits to counties.** The tax commission shall cause an official visit to be made in every county in the state at least once in two years, and inquire into the methods of assessment and taxation, and ascertain whether the assessors faithfully discharge their duties and particularly as to their compliance with the provisions of this chapter requiring the assessment of all property not exempt from taxation at its full value. The members of the board of supervisors of the county and the assessors of the cities, towns and villages within the county shall meet at the time and ⁴ place or places within the county designated by the commission. ⁷ The clerk of the board of supervisors shall send notice of such meeting to each of such supervisors and assessors in the county ten days before the meeting and shall immediately thereafter advise the commission that such notices have been sent. Supervisors in addition to the compensation provided

¹ Word "such" substituted for word "a."

² Words "as would" new.

³ Word "to" omitted.

⁴ Remainder of section new.

⁵ Previously amended by L. 1911, ch. 120; L. 1915, ch. 317.

⁶ Words "time and" new.

⁷ Following sentence new.

by section twenty-three of the county law, and assessors, shall be entitled to receive compensation at the rate of four dollars per day for each calendar day actually and necessarily spent in attending a meeting within the county held for the purpose of conference with the state tax commission or a member of such commission and mileage at the rate of eight cents per mile by the most direct route from his residence, in going to and returning from the place within the county where such meeting is held. Such compensation and mileage shall be a county charge in reference to the town officials and a village charge for the village assessors.

§ 2. This act shall take effect immediately.

CHAPTER 322

AN ACT to amend the town law, in relation to the powers of town boards in certain towns to establish building lines; regulate the character and location of buildings constructed within such town; authorizing the appointment of a commission for any such town to recommend the necessary ordinance or ordinances therefor, and making the necessary expenses incurred in connection therewith a town charge.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 18
added to L.
1909, ch.
62, § 142a,
as added
by L. 1919,
ch. 218.

Section 1. Section one hundred and forty-two-a¹ of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by chapter two hundred and eighteen of the laws of nineteen hundred and nineteen, is hereby amended by adding thereto a new subdivision, to be subdivision eighteen, to read as follows:

18. Building lines; character and use of buildings. To establish building lines on any property fronting or adjoining any public streets and require all buildings hereafter erected to be within such lines, to regulate and limit the height and bulk of buildings hereafter erected and regulate and determine the area of yards, courts and other open spaces and for such purpose divide the town into districts, which regulations shall be uniform for each class of buildings throughout any district, but the regulations in one or more districts may differ from those in other districts; to regulate and restrict the location of trades and industries and the location of buildings designed for specified uses and for such purpose divide the town into districts and prescribe for each such district the trades and industries that shall be excluded or subjected to special regulation and the uses for which buildings may not be erected or altered. Regulations under this subdivision shall be designed to promote the public health, safety and general

¹ As amended by L. 1922, ch. 210, ante.

welfare, and shall be made with reasonable consideration, among other things, to the most desirable use for which the land of each district may be adopted, the peculiar suitability for particular use of a district, the conservation of property values and the direction of building development, in accordance with a well-considered plan. Such ordinance or ordinances, however, shall apply only to that portion of such town not incorporated as a village and shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the town clerk under the corporate seal of the town, and showing the date of its passage and entry in the minutes. The appointment of a commission for any such town, to consist of not less than three nor more than five members who shall be citizens and residents and who shall serve without compensation to recommend the necessary ordinance or ordinances therefor, is hereby authorized. All necessary expenses incurred by any such town board in connection therewith shall be a town charge.

§ 2. This act shall take effect immediately.

CHAPTER 323

AN ACT to amend the village law, in relation to the collection of school district taxes.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy of article three-a of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," as added by chapter five hundred and fifty-five of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

L. 1909, ch. 64, § 70, as added by L. 1916, ch. 555, amended.

§ 70. **Office created; term of office; compensation.** In each village adjoining a city of the first class, situated within a county having a population of four hundred thousand or upwards, according to the last state enumeration, except in counties adjoining a city of over one million inhabitants, there shall be a receiver of taxes and assessments. The term of office of such receiver of taxes and assessments shall be four years. Such office shall be filled by the electors of the village, in the same manner as other elective offices of the village, at the times hereinafter provided. The salary shall be fixed by the board of trustees of such village, ¹ but where a union free school district, located wholly or in part within the boundaries of a village, shall appoint such receiver of taxes and assessments as the collector or receiver of school taxes and assessments for such school district and pay him a fixed com-

¹ Remainder of section new.

compensation in lieu of fees and other charges, the salary or compensation shall be borne on such pro rata basis by such school district and such village as the school district board of trustees and the village board of trustees may agree.

§ 71, as
added by
L. 1916, ch.
555, and
amended
by L. 1917,
ch. 20,
amended.

§ 2. Section seventy-one of such village law, as added by chapter five hundred and fifty-five of the laws of nineteen hundred and sixteen and last amended by chapter twenty of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 71. Powers and duties of receiver. The receiver of taxes and assessments shall be a resident of such village, and shall hold no other public office except the receiver or collector¹ of taxes and assessments of the town in which such village is located or the receiver or collector of taxes and assessments for a union free school district located wholly or in part within the boundaries of such village,² in counties having a city of more than four hundred thousand and less than one million, and shall have and possess and shall exercise in the manner and within the time prescribed by law all the rights, powers, authority and jurisdiction possessed and exercised by either the collector of taxes or the treasurer of such village, and shall be subject to all of the duties of each of said officers. It shall be the duty of such receiver to receive and collect all village taxes and assessments that may be levied in such village, including water rates, license moneys, and all other moneys provided by law to be paid to the treasurer or collector of such village, or to the village trustees. All fees collected by him upon village taxes or assessments heretofore paid to the collector or to the treasurer shall belong to the village and shall be paid into the general village fund. Such receiver shall enter daily in a suitable book or books the sum of money received daily, names of the persons from whom received, and the particular tax or assessment, subject or department for which such sums were paid, and the interest, penalty or fee, if any, paid thereon, and such book or books shall be public records and shall be open during office hours to public inspection to any taxpayer in such village. Within twenty-four hours after receiving the same he shall deposit all sums of money received by him belonging to the village in such bank or banks as may be designated from time to time by the trustees of such village. All moneys deposited by him so belonging to such village shall be paid out and disbursed by him on his check as such receiver upon proper order of the trustees.

§ 3. This act shall take effect immediately.

¹ Words "or collector" new.

² Words "or the receiver or collector of taxes and assessments for a union free school district located wholly or in part within the boundaries of such village," new.

CHAPTER 324

AN ACT to amend chapter sixty-nine of the laws of eighteen hundred and sixty-three, entitled "An act to erect a union school district in the village of Watkins, and to create a board of education therein, with power of taxation and other powers for school purposes," in relation to the school-house in such district.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-one of chapter sixty-nine of the laws of eighteen hundred and sixty-three, entitled "An act to erect a union school district in the village of Watkins, and to create a board of education therein, with power of taxation and other powers for school purposes," as last amended by chapter three hundred and five of the laws of eighteen hundred and ninety-three, is hereby amended to read as follows:¹

§ 21. Whenever in the opinion of a majority of said board, a sale or exchange of any primary school-house or house and lot would be proper, said board may cause such sale or exchange to be made, and may buy a new site, or may at any time build a new school-house, or build additions and enlargements to an existing school-house for the accommodation of any portion of said district when authorized thereto by a vote of the taxpayers of said district, to be called together as provided by section eight, chapter sixty-nine, laws of eighteen hundred and sixty-three. For the purpose of paying the cost of such site, or of the erection and construction of such building, or of the erection and construction of such additions and enlargements, or alterations to an existing school-house, the said board of education or a majority of them, shall have power and it shall be their duty to borrow on the credit of the said Watkins union school district, such sum or sums as may be necessary upon a term of credit not exceeding twenty-five years, and at a rate of interest not exceeding six per centum per annum, as shall seem to them for the best interests of said district, and to issue bonds or other evidence of indebtedness therefor, which shall be a charge upon said district, and be paid at maturity, and which shall not be sold below par. Said bonds, certificates or other evidences of indebtedness shall be signed by the president of said board of education, certified by the clerk and sealed with the corporate seal of said board. Notice of the time and place of the sale of such bonds shall be given by said board of education at least ten days prior thereto by publication twice in two newspapers, if there be two, or in one newspaper if there be but one published in the district. All of the provisions of the general municipal law relative to the method of the registry of municipal bonds and the conversion of coupon into registered bonds shall apply to bonds issued pursuant to the

L. 1893, ch. 305, as amended by L. 1892, ch. 305, amended.

School-houses; disposal of; construction of new buildings and additions.

Board to issue bonds.

¹ Section materially amended.

Tax for
payment.

Additional
bond of
treasurer.

Contracts
for labor
and mate-
rials.

provisions of this section, except that the duties therein required to be performed by the clerk of the municipal corporation shall be performed by the clerk of said board of education. Whenever a tax for any of the objects hereinbefore specified shall be legally voted the board of education shall make out their tax list, and attach their warrant thereto, in the manner provided in this chapter, for the collection of school district taxes, and shall cause such taxes or such installments to be collected at such times as they shall become due. The said board of education shall have the power and it shall be their duty to require said treasurer to execute an additional bond in form similar to his present official bond, in a sum and with sureties to be fixed and approved by said board, for the faithful holding, paying and accounting for said moneys. Said trustees shall have power to make all necessary contracts for labor and materials in the erection and construction of said buildings and the purchase of said lands and the work pertaining thereto, and the contract for such work and materials shall be in writing signed by a majority of the said trustees and of which contract there shall be two originals executed in duplicate by the contracting parties, one of which shall be delivered to the contracting party, and one filed with the clerk of said trustees, and three weeks' public notice shall be given by publishing notice in all the newspapers published in the village of Watkins, of the times and places at which sealed proposals will be received for entering into contracts for such work and materials, and the said trustees shall have full discretion as to the acceptance or rejection of any and all sealed proposals, and every person who shall enter into any contract for the supply of materials or the performance of any work shall give satisfactory security to said trustees for the faithful performance of his contract according to its terms.

§ 2. This act shall take effect immediately.

CHAPTER 325

AN ACT to amend chapter seven hundred and seventy-six of the laws of nineteen hundred and twenty, entitled "An act providing for the erection and construction of the buildings of the Cortland State Normal and Training School," so as to provide for the equipment and furnishing of such buildings and the grading and improvement of the grounds surrounding such buildings.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1920, ch.
776, §§ 1-3
amended.

Section 1. Sections one, two and three of chapter seven hundred and seventy-six of the laws of nineteen hundred and twenty, entitled "An act providing for the erection and construction of the buildings of the Cortland State Normal and Training School," are hereby amended to read as follows:

§ 1. The commissioner of education is hereby authorized and empowered to execute all necessary contracts in behalf of the people of the state of New York for the erection and construction of the buildings of the Cortland State Normal and Training School, on the site selected for such school as provided by law, ^{Contracts for construction and equipment; limitation of cost.} and for the equipment and furnishing of such buildings, the grading and improvement of the grounds surrounding such buildings, and the repair and improvement of the buildings on such site at the time of the acquisition thereof which are to be used for such school, at a cost not to exceed one million two hundred and fifty thousand dollars.

§ 2. The plans and specifications for such buildings and for the repair or improvement of the buildings on the site at the time of its acquisition¹ shall be prepared by the state architect and shall be approved by the commissioner of education. The state architect shall supervise the work of construction, heating, lighting and plumbing, authorized by this act, and it shall be his duty to see that the material furnished and the work performed in the construction of such buildings are in accordance with the plans and specifications adopted as above provided and that the interests of the state are fully protected. ^{Plans and specifications; supervision of work.} The commissioner of education shall cause to be prepared plans and specifications for the grading and improvement of the grounds surrounding such buildings, and the work performed in the grading and improvement of such grounds shall be done under his direction and in accordance with plans and specifications therefor approved by him.

§ 3. Such buildings shall be erected, repaired or improved and such grounds shall be graded or improved² pursuant to contracts let by the commissioner of education for the whole or any part of the work to be performed, and in his discretion such contracts may be sublet. ^{Contracts letting.} The equipment, fixtures and furniture for such buildings herein authorized shall be purchased by the local board of managers of such school, subject to the approval of the commissioner of education in the same manner and subject to the same provisions of law as such equipment, fixtures and furniture are purchased or acquired for the normal schools of the state. ^{Purchase of equipment.} Upon all proposals for the work of construction, heating, lighting or plumbing of such buildings, or the repair or improvement of existing buildings,³ a preliminary deposit, in an amount to be determined by the state architect, or a certified check for a like amount drawn upon some legally incorporated bank in this state, shall in all cases be required as an evidence of good faith. ^{Deposits with proposals.} Upon

¹ Remainder of section formerly read: "at a cost not to exceed one million seven hundred and fifty thousand dollars."

² Words "and for the repair or improvement of the buildings on the site at the time of its acquisition," new.

³ Remainder of section new.

⁴ Words "repaired or improved and such grounds shall be graded or improved," new.

⁵ Following sentence new.

⁶ Words "or the repair or improvement of existing buildings," new.

Advertisement for proposals.

Liability of state limited. Contracts of over \$1,000 to be secured by bonds.

Payments on contracts, how made.

all proposals for the grading and improvement of such grounds, a preliminary deposit in an amount to be determined by the commissioner of education, or a certified check for a like amount, shall be required. Such deposit or certified check shall be deposited with the commissioner of education. The commissioner of education shall determine to what extent and for what length of time advertisements are to be inserted in the newspapers for proposals for the erection of such buildings, or for heating, lighting or plumbing the same, ⁷ or for the repair or improvement of existing buildings, or for the grading and improvement of such grounds. A copy of all contracts awarded, as herein provided, shall be filed with the comptroller. No liability shall be incurred by the state beyond that authorized in section one of this act. All contracts in an amount greater than one thousand dollars shall have the performance thereof secured by sufficient bond or bonds,⁸ if for the construction, heating, lighting or plumbing of such buildings, in an amount to be determined by the state architect; if for the grading or improvement of such grounds, in an amount to be determined by the commissioner of education. Such bond or bonds shall be approved as to their sufficiency and form by the attorney-general and shall be filed in the office of the state comptroller. A bond shall not be required in the case of a contract in an amount less than one thousand dollars, provided payment is to be made under such contract only after the completion and approval of the work performed thereunder. All payments on contracts made hereunder shall be made out of moneys available therefor, as follows: if out of moneys realized from the insurance on the buildings of the said Cortland State Normal and Training School, recently destroyed by fire, and deposited as provided in section eight hundred and twenty-five of the education law, such payments shall be made upon the certificate of the state architect approved by the local board of managers of such school and the commissioner of education; if out of moneys appropriated by the legislature, such payments, if for the construction, heating, lighting or plumbing of such buildings,⁹ shall be made upon the warrant of the comptroller drawn upon the certificate of the state architect and with the approval of the commissioner of education; ⁷ if such payments are for the grading or improvement of such grounds or for the purchase of equipment, fixtures and furniture for such buildings, they shall be made upon the warrant of the comptroller drawn upon the certificate of the commissioner of education. All original bids or proposals and abstracts thereof shall accompany the copies of contracts which are filed with the comptroller. Such moneys as are appropriated or may be available for the construction of such buildings, the grading or improvement of the grounds, and for such equipment, fixtures and

⁷ Remainder of sentence new.

⁸ Remainder of sentence formerly read: "in an amount to be determined by the state architect."

⁹ Words "if for the construction, heating, lighting or plumbing of such buildings," new.

furniture,¹⁰ shall be advanced only as the work progresses or the purchase of material is made, upon bills duly certified, approved and audited.

§ 2. This act shall take effect immediately.

CHAPTER 326

AN ACT to amend the domestic relations law, in relation to the solemnization of marriage.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eleven and section eleven-a of chapter nineteen of the laws of nineteen hundred and nine, entitled "An act relating to the domestic relations, constituting chapter fourteen of the consolidated laws," as last amended by chapter six hundred and twenty of the laws of nineteen hundred and eighteen,¹ are hereby amended, respectively, to read as follows:

2. A mayor, recorder, city magistrate, police justice or police magistrate of a city, or the city clerk of a city of the first class of over one million inhabitants or any of his deputies or not more than two regular clerks,² designated by him for such purpose as provided in section eleven-a of this chapter, except that in cities which contain more than one hundred thousand and less than one million inhabitants, a marriage shall be solemnized by the mayor, or police justice, and by no other officer of such city, except as provided in subdivisions one and three of this section.

§ 11-a. Duty of city clerk in certain cities of the first class. The city clerk of a city of the first class of over one million inhabitants may designate in writing any of his deputies or not more than two³ of his regular clerks to perform marriage ceremonies, which designation shall be in writing and be filed in the office of such city clerk. The day and hour of such filing shall be endorsed on the designation. Any such designation shall be and remain in effect for six months from the filing thereof. The designation of a deputy heretofore made for such purpose shall expire ninety days after this section, as hereby amended, takes effect. Whenever persons to whom the city clerk of any such city of the first class shall have issued a marriage license shall request him to solemnize the rites of matrimony between them and present to

¹⁰ Words "the grading or improvement of the grounds, and for such equipment, fixtures and furniture," new.

¹ Section 11, subd. 2 previously amended by L. 1911, ch. 610; L. 1912, ch. 106; L. 1913, ch. 490; L. 1916, ch. 524. Section 11a as added by L. 1916, ch. 524.

² Formerly read: "or a regular clerk."

³ Words "not more than two" substituted for word "one."

L. 1909, ch. 19, § 11, subd. 2, and § 11a, as amended by L. 1918, ch. 630, amended.

By whom marriage must be solemnized.

him such license it shall be the duty of such clerk, either in person or by one of his deputies or regular clerks² so designated by him to solemnize such marriage; provided, however, that nothing contained either in this section or in subdivision two of section eleven of this chapter shall be construed as empowering or requiring either the said city clerk or any of his designated deputies or regular clerks to solemnize^{*} marriages at any place other than at the office of such city clerk. In all cases in which the city clerk of such city or one of his deputies or clerks² so designated shall perform a marriage ceremony such official shall demand and be entitled to collect therefor a fee of two dollars, which sum shall be paid by the contracting parties before or immediately upon the solemnization of the marriage; and all such fees so received shall be paid over monthly to the treasurer of the city.

§ 2. This act shall take effect immediately.

CHAPTER 327

AN ACT to amend the education law, in relation to state aid for the instruction of the deaf and dumb.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 21 (revision of L. 1910, ch. 140), § 971 amended.

Section 1. Section nine hundred and seventy-one of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 971. **Persons eligible as pupils to institutions for instruction of the deaf and dumb.** All deaf and dumb persons resident in this state, of the age of five years and upwards, who are not now under appointment as county pupils in one of the deaf and dumb institutions of the state in pursuance of sections nine hundred and seventy-seven, nine hundred and seventy-eight and nine hundred and seventy-nine of this article,¹ and who shall have been resident in this state for one year immediately preceding the application, or, if a minor, whose parent or parents, or, if an orphan, whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible to appointment as state pupils in one of the deaf and dumb institutions of this state, authorized by law to receive such pupils.

§ 2. Section nine hundred and seventy-three of such chapter, as amended by chapter one hundred and forty of the laws of

§ 973, as amended by L. 1919, ch. 297, amended.

^{*} So in original. [Word misspelled.]

² Formerly read: "or a regular clerk."

¹ Sentence to here formerly read: "All deaf and dumb persons resident in this state, of twelve years of age."

nineteen hundred and ten, and as last amended by chapter two hundred and ninety-seven of the laws of nineteen hundred and nineteen,² is hereby amended to read as follows:

§ 973. **Support and term of instruction of state pupils.** 1. Each pupil so received into any of the institutions aforesaid shall be provided with board, lodging and tuition; and the directors of the institution shall receive an annual appropriation for each pupil so provided for, in quarterly payments, to be paid by the treasurer of the state, on the warrant of the comptroller, to the treasurer of said institution, on his presenting a bill showing the actual time and number of pupils attending the institution, which bill shall be signed by the president and secretary of the institution, and verified by their oaths.

2. ³ The regular term of instruction of any such blind pupil shall be five years. ⁴ The regular term of instruction of any such deaf and dumb pupil shall be twelve years, or until the pupil shall have attained the age of eighteen years before the expiration of twelve years from the beginning of such term; provided, however, that the number of years that any deaf and dumb pupil may have attended such an institution as a county pupil shall be counted as part of such term. The commissioner of education may, in his discretion, extend the term of any pupil for a period not exceeding three years. It shall also be lawful for the commissioner of education to continue such pupils as state pupils for an additional period of three years for the purpose of pursuing or completing ⁵ a course of study in the higher branches of learning. The number of pupils continued each year in such course shall not exceed thirty in any one institution and such pupils must be recommended by the trustees of the institution in which they are attendants, before such extension of time is granted. The term of kindergarten training and instruction for blind ⁶ babies and children of the age of twelve years and under received into any such institution under the provisions of section nine hundred and seventy-two of this chapter, shall be at the discretion of the commissioner of education and shall be paid for at the rate of one dollar and fifty cents per day. The pupils provided for in this section and in sections nine hundred and seventy-one and nine hundred and seventy-two of this article shall be designated state pupils; and all the existing provisions of law applicable to state pupils now in said institutions shall apply to pupils herein provided for.

3.⁷ Children placed in any such institution for the deaf and dumb, pursuant to sections nine hundred and seventy-one and

² Previously amended by L. 1912, chs. 60, 223.

³ Following sentence, which was part of second sentence following, formerly read: "The regular term of instruction of such pupils shall be five years; but."

⁴ Following sentence new.

⁵ Words "or completing" new.

⁶ Word "blind" new.

⁷ Subd. 3 new.

nine hundred and seventy-three, shall be maintained therein at the expense of the state.

§§ 977, 978
amended.

§ 3. Sections nine hundred and seventy-seven and nine hundred and seventy-eight of such chapter, as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, are hereby amended to read as follows:

§ 977. **Indigent deaf-mute children.** Whenever a deaf-mute child under the age of five years^{*} shall become a charge for its maintenance on any of the towns or counties of this state, or shall be liable to become such charge, it shall be the duty of the overseers of the poor of such town or of the board of supervisors of such county to place such child in one of the institutions enumerated in the next section. ⁹ The pupils provided for in this section and sections nine hundred and seventy-eight and nine hundred and seventy-nine of this article shall be designated county pupils.

§ 978.¹⁰ **Deaf-mute children improperly cared for.** Upon the application of any parent, guardian or friend of a deaf-mute child, within this state, the overseer of the poor or the supervisor of the town where such child may be, shall proceed as follows: If the child be under the age of five years and shall have become a charge on the town or county for its maintenance, or shall be liable to become such charge, they shall place such child in one of the institutions hereinafter named or described. In the case of any deaf-mute child of the age of five years and upward, and under the age of eighteen years, they shall report the facts to the commissioner of education. The commissioner of education may place in one of such institutions the child so reported, if found to be eligible under the provisions of section nine hundred and seventy-one, or any other child found by him to be so eligible. Such institutions are as follows:

1. The New York institution for the deaf and dumb; or,
2. The institution for the improved instruction of deaf-mutes; or,
3. The Le Couteulx Saint Mary's institution for the improved instruction of deaf-mutes in the city of Buffalo; or,
4. The central New York institution for deaf-mutes in the city of Rome; or,
5. The Albany home school for the oral instruction of the deaf at Albany; or,
6. The northern New York institution for deaf-mutes in the village of Malone; or,
7. Saint Joseph's institute for the improved instruction of deaf-mutes, Westchester, in the city of New York; or,
8. Rochester school for the deaf, in the city of Rochester; or,
9. Any other institution in the state for the education of deaf-mutes as to which the state board of charities shall have filed

^{*} Formerly "twelve years."

⁹ Following sentence new.

¹⁰ Section 978 materially amended.

with the commissioner of education a certificate to the effect that said institution has been duly organized and is prepared for the reception and instruction of such pupils.

§ 4. Section nine hundred and seventy-nine of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, chapter three hundred and eighty-two¹¹ of the laws of nineteen hundred and ten, chapter one hundred and seventy-nine of the laws of nineteen hundred and seventeen, chapter two hundred and forty-three of the laws of nineteen hundred and eighteen, chapter one hundred and sixty-four of the laws of nineteen hundred and nineteen, chapter one hundred and eight of the laws of nineteen hundred and twenty, and chapter three hundred and eighty-two of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:¹²

§ 979. **Maintenance of children.** The children placed in said institutions, in pursuance of the last two sections, shall be maintained therein as follows: those of the age of five years and upward, at the expense of the state; those under the age of five years, at the expense of the county from where they came, until they attain the age of five years, at the same annual per capita rate as is paid by the state of New York for the support and instruction of state pupils in said institutions, unless the directors of the institution to which a child has been sent shall find that such child is not a proper subject to remain in said institution; but such expense for each child shall not exceed four hundred dollars per year, provided, however, that all deaf and dumb children over the age of five years and under the age of twelve years, appointed as county pupils prior to the passage of this act, in pursuance of this section and sections nine hundred and seventy-seven and nine hundred and seventy-eight of this article, shall be maintained as such at the expense of the county from where they came until they attain the age of twelve years, at the same rate of expense and under the same conditions as other county pupils placed in said institutions.

§ 2.¹³ This act shall take effect immediately.

¹¹ Should read: "chapter three hundred and twenty-two."

¹² Section 979 materially amended.

¹³ Should be "§ 5."

CHAPTER 328

AN ACT to amend the education law, in relation to designation of bank for deposit of funds in certain union free school districts.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 21 (revision of L. 1910, ch. 140), § 254, subd. 4 amended.

Section 1. Subdivision four¹ of section two hundred and fifty-four of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended to read as follows:

Treasurer and collector in certain union free school districts: depositors, etc.

4. Said board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall appoint a district treasurer, and a collector who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. ²The board may designate a bank, banks or banker for the deposit of all moneys received by the treasurer and may require of any such banks or banker security for the repayment thereof. It may require a report by the cashier of such bank, banks or banker to be submitted at any regular meeting of the board of the amount of deposit to the credit of the treasurer.

§ 2. This act shall take effect immediately.

CHAPTER 329

AN ACT to amend the highway law, in relation to proceedings for the construction or repair of bridges by towns jointly liable.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 256 amended.

Section 1. Section two hundred and fifty-six of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended to read as follows:

§ 256. **Proceedings in court.** Whenever two or more adjoining towns which, under the provisions of this chapter shall be liable to make or maintain any bridge,^{2a} whether in the same or different

¹ Subd. 4 was amended by L. 1922, ch. 314, ante. The amendments effected by said ch. 314 are not incorporated in subd. 4 as here amended.

² Remainder of subd. 4 new.

^{2a} Sentence to here formerly read: "Whenever any adjoining towns shall be liable to make or maintain any bridge, over any streams dividing such towns."

counties, three freeholders in either of such towns may, by petition signed by them, apply to the town board in each of such towns, to build, rebuild or repair such bridge, and if such town boards refuse to build, rebuild or repair such bridge within a reasonable time, either for want of funds or any other cause, such freeholders, upon affidavit and notice of motion, a copy of which shall be served on the¹ supervisor or town clerk of each of said towns² at least eight days before the hearing, may apply to the supreme court at a special term thereof, to be held in the judicial district in which such bridge or any part thereof shall be located, for an order requiring such town boards to direct the town superintendents to build, rebuild or repair such bridge, and the court upon such motion may, in doubtful cases, refer the case to some disinterested person to ascertain the requisite facts in relation thereto, and to report the evidence thereof to the court. Upon the coming in of the report, in case of such reference, or upon or after the hearing of the motion, in case no reference shall be ordered, the court shall make an order thereon as the justice of the case shall require. If the motion be granted in whole or in part, whereby funds shall be needed to carry the order into effect, such court shall specify the amount of money required for that purpose, and how much thereof shall be raised in each town.

§ 2. This act shall take effect immediately.

CHAPTER 330

AN ACT to amend the insurance law, in relation to application of agent's certificate of authority.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-two of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter seven of the laws of nineteen hundred and thirteen and as last amended by chapter five hundred and fifty-two of the laws of nineteen hundred and eighteen,¹ is hereby amended to read, respectively, as follows:

§ 142. **Agent's certificate of authority.** The term "agent" in this section shall include an acknowledged agent or any person, partnership, association or corporation who shall in any manner aid in transacting the insurance business of any underwriter, incorporated or unincorporated, by negotiating for or

¹ Word "the" substituted for word "each."

² Words "or town clerk of each of said towns" new.

³ Previously amended by L. 1914, ch. 13.

L. 1909, ch. 33, § 142, as added by L. 1913, ch. 7, and amended by L. 1918, ch. 552, amended.

placing risks or delivering policies or collecting premiums, but shall not include the officers and salaried employees of any such underwriter, who do not receive commissions. Every underwriter, incorporated or unincorporated, engaged in the transaction of any business of insurance within this state, upon the employment or termination of the employment of any person, partnership, association or corporation to act as its agent within this state, shall certify such fact together with the name and address of such agent to the superintendent of insurance; and shall also annually during the month of January, in such form as the superintendent of insurance shall prescribe, file with him a list of the names and addresses of all its agents authorized to act as such within the state. No person, partnership, association or corporation shall as agent act for any such underwriter in this state, unless such underwriter shall have fully complied with the provisions of this chapter nor unless such agent shall have procured an agent's certificate of authority from the superintendent of insurance. The superintendent of insurance shall file in his office evidence of the issuance of every such certificate to an agent, together with evidence of such agent's authority from each underwriter for whom he is to act. An agent's certificate of authority shall be issued only upon application filed with the superintendent of insurance, in such form as the superintendent of insurance shall prescribe. Every such certificate shall expire on the thirty-first day of December of the calendar year in which the same shall have been issued, but if the application for the renewal of any such certificate shall have been filed with the superintendent of insurance before January first of any year such agent may continue to act as such under such expired certificate until the issuance to him by the superintendent of insurance of a new certificate or until five days after the superintendent of insurance shall have refused to renew such certificate and shall have served notice of such refusal on such agent. Service of such notice may be made either personally or by mail, and, if by mail, shall be deemed complete if such notice is deposited in the postoffice, postage prepaid, directed to the applicant at the place of residence or business specified in his application. An underwriter, authorized to transact the insurance business within this state, who shall employ as agent any person, partnership, association or corporation not having an agent's certificate of authority from the superintendent of insurance authorizing him to act as agent shall not authorize or permit such agent under his contract of employment to solicit insurance or issue policies for such underwriter until such agent shall have procured a certificate of authority as required by this section. An agent's certificate of authority shall be revoked, or the issue or renewal thereof refused, by the superintendent of insurance if, after due investigation and a hearing either before himself or before any salaried employee of the insurance department designated by him whose report he may adopt, he determines that the holder of such certificate, or the applicant therefor, as the case may be, has vio-

lated any ² law, or has made a material misstatement in the application for such certificate, or has demonstrated his incompetency or untrustworthiness to transact business as an insurance agent, or has been guilty of fraudulent or dishonest practices. No individual, corporation, partnership or association whose certificate of authority is so revoked, nor any partnership, or association of which such individual is a member, nor any corporation of which he is an officer, shall be entitled to any certificate of authority under this section for one year after such revocation, or, if such revocation be reviewed by certiorari proceedings, for one year after the final determination thereof affirming the action of the superintendent in revoking such certificate. If any such certificate held by a partnership, association or corporation be so revoked, no member of the partnership or association or officer of the corporation shall be entitled to any such certificate for the same period of time, if the superintendent of insurance determine that such member or officer was personally at fault in the matter on account of which the certificate was revoked. The action of the superintendent of insurance in granting or refusing to grant or renew a certificate of authority or in revoking or refusing to revoke such certificate under this section shall be subject to review by writ of certiorari, at the instance of the applicant for such certificate, the holder of a certificate so revoked or the holder of any certificate or the person aggrieved. If the superintendent of insurance shall revoke or shall refuse to renew the certificate of authority of any agent issued under this section and such agent shall apply for a writ of certiorari to review such action, the certificate of authority of such agent shall be deemed to be in full force and effect for all purposes, including the right to renewal until the final determination of such certiorari proceedings and all appeals therefrom.

This section shall not apply to any contract of life insurance, nor to any contract of health or accident insurance, nor to contracts of insurance upon property located without this state, nor to contracts made by persons, partnerships, associations or corporations authorized to do business under articles five, six, seven and nine of this chapter.

Any person, partnership, association or corporation violating any provision of this section shall, in addition to any other penalty in this chapter provided, forfeit to the people of the state five hundred dollars.

Nothing in this chapter shall be so construed as to prevent any underwriter authorized to do business within this state from authorizing a broker to whom a certificate of authority has been issued under this chapter to act as agent of such underwriter for the collection of premiums.

§ 2. This act shall take effect immediately.

² Remainder of sentence formerly read: "provisions of this chapter or has been guilty of fraudulent practices."

CHAPTER 331

AN ACT to legalize, ratify and confirm the acts and proceedings of the village of Kenmore, New York, its voters, officers and agents in relation to the issue and sale of bonds for an extension of its water system and its lighting system and for the aggregate amount of the unpaid assessments assessed upon the property benefited for the construction of certain sewers in such village.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings legal-
ized.

Section 1. All the acts and proceedings had and taken by the village of Kenmore, Erie county, New York, and its officers, agents and qualified voters at a special village election held in such village on the first day of August, nineteen hundred and twenty-one, which authorized an extension of the water system of such village and an extension of its lighting system and for the construction of certain sewers in such village at the joint expense of the village and the property benefited, and for the issue of bonds for such water extensions and such lighting extensions and for the aggregate amount of the unpaid assessments on the property benefited, and the acts and proceedings of the board of trustees of said village before and after such election relating to the issue and sale of the bonds of the village in the amount of four thousand dollars for the purpose of paying the expense for the extension of such water system, and one thousand dollars for the purpose of paying for the expense for the extension of such lighting system and to the amount of six thousand six hundred thirty-seven dollars and eighty cents, the aggregate amount of the unpaid assessments, assessed upon the property benefited for the construction of such sewers, are hereby legalized, ratified and confirmed, notwithstanding any defect, irregularity or want of lawful authority in any such acts or proceedings, and when such bonds so sold are executed and delivered to the purchaser shall be valid and subsisting obligations of the village.

Bonds
validated.

Moneys for
principal
and in-
terest.

Pending
actions.

§ 2. Such village shall cause such sums to be raised annually as may be necessary to provide for the payment of the principal and interest of such bonds as the same shall become due.

§ 3. This act shall not affect any action or proceeding now pending in any court.

§ 4. This act shall take effect immediately.

CHAPTER 332

AN ACT to authorize the inhabitants of the several school districts of the town of Mendon, Monroe county, to appropriate moneys and vote taxes for certain purposes.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The inhabitants of the several school districts of the town of Mendon, Monroe county, when duly assembled in district meeting are hereby authorized and empowered by majority vote to appropriate moneys and to vote taxes for the purpose of reimbursing such districts for public moneys apportioned by the state and lost through the failure of the Holden Bank of Honeoye located at Honeoye Falls, New York, in which bank the collectors or treasurers of such districts and the supervisor of the town of Mendon had on deposit at the time of such failure school moneys belonging to such districts respectively.

§ 2. This act shall take effect immediately.

CHAPTER 333

AN ACT to amend section one hundred and thirty-four-a of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," in relation to limitation of indebtedness.¹

Accepted by the City.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and thirty-four-a of chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," as added by chapter eighty-seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 134-a. No debt shall be contracted by the city if the amount thereof together with the then outstanding debts of the city would exceed a sum equal to seven per centum of the aggregate valuation of the real property within its bounds as assessed upon the last general assessment roll, ² except (1) that debts incurred to provide for the supply of water and (2) certificates of indebtedness or revenue bonds issued in anticipation of the collection of

L. 1892, ch. 123, § 134a, as added by L. 1921, ch. 87, amended.

Limitation of indebtedness; certain obligations excepted.

¹ See new charter (L. 1922, ch. 490), post, § 98.

² Remainder of sentence new.

taxes, which are retired within five years after their date of issue, shall not be included in ascertaining the power of the city to become otherwise indebted. This section shall not be construed to prevent the issuing of tax certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained or to be contained in the taxes for the year in which such tax certificates or revenue bonds are issued and payable out of such taxes, nor shall this section be construed to prevent the issuing of bonds to provide for the supply of water.³

§ 2. This act shall take effect immediately.

CHAPTER 334

AN ACT to extend the time of The Nickel Plate Connecting Railroad Corporation to begin and finish the construction of its railroad.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The time within which The Nickel Plate Connecting Railroad Corporation, a corporation of the state of New York, may begin the construction of its road and expend thereon ten per centum of the amount of its capital, and the time within which said The Nickel Plate Connecting Railroad Corporation may finish its road and put the same in operation, is hereby extended for five years beyond the time when the same would otherwise expire; and the corporate powers and existence of said company are hereby continued for such extended period, and shall not cease for failure to begin such construction or to finish its road and put it in operation, unless such failure is continued beyond the period of said five years.

§ 2. This act shall take effect immediately.

CHAPTER 335

AN ACT to repeal article four of the public health law, in relation to adulteration of food and drugs.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
49, art. 4
repealed.

Section 1. Article four of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the

³ Remainder of sentence omitted which read: "which may be issued subject to the limitations imposed by the provisions of the general municipal law."

public health, constituting chapter forty-five of the consolidated laws," is hereby repealed.¹

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 336

AN ACT to amend the railroad law, in relation to coal jimmies and caboose cars.

Became a law March 28, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-eight of chapter four hundred and eighty-one of the laws of nineteen hundred and ten, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws," as last amended by chapter four hundred and thirty of the laws of nineteen hundred and twenty,² is hereby amended to read as follows:

L. 1916, ch.
481, § 78,
as amended
by L. 1920,
ch. 430,
amended.

§ 78. Coal jimmies and caboose cars. The use of cars known and designated as "coal jimmies" in any form and the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

From and after the first day of July, nineteen hundred and twenty-three³ it shall be unlawful for any corporation or individual to man, equip, or to use within the state on any railroad a caboose car, or car to serve the purpose of a caboose car, which shall be less than twenty-four feet in length exclusive of the platform, or which shall have a center constructive strength less than that of the fifty-ton freight cars built according to master car builders' standards. Such caboose or other equivalent car shall be constructed with steel center sills with two four-wheeled trucks; with each platform not less than twenty-four inches wide, with proper guard rails, grab irons and steps, which shall be equipped with a suitable rod, board or other guard designed to prevent slipping from the car step. Each such car shall have a door at each end and shall be equipped with four separate sleeping berths not less than six feet and two inches in length. Each such car shall

¹ Sections 43, 46, 47-49 of art. 4 were previously repealed by L. 1922, ch. 48, ante.

² Previously amended by L. 1913, ch. 497. Subsequently amended by L. 1921, ch. 179.

³ Formerly read: "nineteen hundred and twenty-two."

contain a properly furnished toilet room, sink, icebox, water cooler, clothing lockers, and with a cupola of sufficient size to accommodate at least two men. Whenever any caboose or other car used for like purpose now in use by any such railroad company shall, after this act goes into effect, be brought into any shop for general repairs it shall be unlawful to again put the same into use within this state, as a caboose or other car used for like purpose unless it be equipped as provided in this act.

This section shall not apply to cabooses or other equivalent cars used in the switching service or on trains operated wholly within twenty-five miles of yard limits.

Any violation of the provisions of this section shall be a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than five hundred dollars for each separate offense. This penalty is in addition to that provided for in section eighty-one of this chapter.

§ 2. This act shall take effect immediately.

CHAPTER 337

AN ACT authorizing the city of Elmira to issue bonds for sewer construction.

Accepted by the City.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Issue of
sewer
bonds au-
thorized.

Section 1. The city of Elmira is hereby authorized and empowered by a resolution of its common council, duly adopted, to issue and sell the bonds of said city in a sum not exceeding in the aggregate two hundred thousand dollars, to be known as "sewer bonds." Such bonds shall be signed by the mayor and clerk of the city of Elmira, and sealed with the seal of said city. They shall be of such denominations and shall mature at such time or times and bear such rate of interest not exceeding five per centum per annum, payable semi-annually, as the common council of said city shall determine, and shall not be sold at less than par value. The time fixed for the maturity of any of such bonds shall be not more than thirty years from the date of issue.

Record of
bonds.

§ 2. The chamberlain of said city shall make and keep in his office a record of said bonds by number, date, amounts, date or dates of maturity and the name of payee or payees if registered.

Applica-
tion of
proceeds.

§ 3. The money received therefrom shall be paid to the city chamberlain and by him placed to the credit of the sewer fund, as created by the charter of said city, and shall be used and expended by and under the direction of the board of public works of said city for the purpose of constructing new sewers, repairing old sewers and extending the same and for no other purpose.

§ 4. The city of Elmira is hereby authorized to raise by tax, Tax for payment. in addition to all other sums now authorized by law, whatever sums as may be necessary to pay the interest of said bonds and the principal at the times of maturity.

§ 5. This act shall take effect immediately.

CHAPTER 338

AN ACT authorizing the city of Elmira to issue bonds for paving purposes.

Accepted by the City.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of Elmira is hereby authorized and empowered by a resolution of its common council, duly adopted, to issue and sell the bonds of such city in a sum not exceeding in the aggregate four hundred thousand dollars, to be known as "pavement bonds." Such bonds shall be signed by the mayor and clerk of the city of Elmira and sealed with the seal of said city. They shall be of such denominations and shall mature at such time or times and bear such rate of interest, not exceeding five per centum per annum, payable semi-annually, as the common council of said city shall determine and shall not be sold at less than par value. The time fixed for the maturity of any of such bonds shall be not more than twenty years from the date of issue. Issue of pavement bonds authorized.

§ 2. The chamberlain of said city shall make and keep in his office a record of said bonds by number, date, amounts, date or dates of maturity, and the name of payee or payees, if registered. Record of bonds. The money received therefrom shall be paid to the city chamberlain, and by him placed to the credit of the pavement and sidewalk fund as created by the charter of said city and shall be used and expended by him under the direction of the board of public works of said city in paying the cost of construction or improvements of city streets and for any and all the purposes specified in chapter four hundred and seventy-seven of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Elmira," as amended, known as the charter of the city of Elmira, for which said pavement and sidewalk fund may be used. Application of proceeds. All regulations and provisions of said chapter four hundred and seventy-seven of the laws of nineteen hundred and six, entitled "An act to revise the charter of the city of Elmira," as amended, relative of the liability of adjacent property owners, street surface railways and the city for their respective shares of the cost of said work, and the payment, assessment, collection and expenditure of the money of said pavement and sidewalk fund, in so far as applicable, shall apply to the avails of said bonds as forming a part of said fund.

Tax for
payment.

§ 3. The city of Elmira is hereby authorized to raise by tax, in addition to all other sums now authorized by law, whatever sums may be necessary to pay the interest on said bonds and the principal at the times of maturity.

§ 4. This act shall take effect immediately.

CHAPTER 339

AN ACT to amend the judiciary law, in relation to the committees appointed by the appellate division to investigate the character and fitness of applicants for admission to the bar, and making an appropriation for the expenses and disbursements of such committee.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
35, § 33,
subd. 1, as
amended
by L. 1913,
ch. 105,
amended.

Section 1. Subdivision one of section eighty-eight of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," as amended by chapter one hundred and five of the laws of nineteen hundred and eighteen,¹ is hereby amended to read as follows:

Admission
to practice
by appel-
late divi-
sion.

1. Upon the state board of law examiners certifying that a person has passed the required examination, or that the examination has been dispensed with, the appellate division of the supreme court in the department in which such person shall have resided for at least six months prior to such application, if it shall be satisfied that such person possesses the character and general fitness requisite for an attorney and counsellor-at-law, shall admit him to practice as such attorney and counsellor-at-law in all the courts of this state. ² The members of the committee appointed pursuant to the rules of civil practice by the appellate division in each department to investigate the character and fitness of applicants for admission to the bar, shall be entitled to their necessary traveling, hotel and other expenses, incurred in the performance of their duties, payable by the state out of moneys appropriated therefor, upon certificate of the presiding justice of the appellate division by which such committee is appointed.

Expenses
of com-
mittee on
character
and fit-
ness.

Appropri-
ation.

§ 2. The sum of five thousand dollars (\$5,000) or so much thereof as may be needed is hereby appropriated for the purposes of this act, payable by the treasurer on the warrant of the comptroller, on the certificate of the presiding justices of the several appellate divisions, as provided by this act.

§ 3. This act shall take effect immediately.

¹ Previously amended by L. 1912, ch. 253.

² Following sentence new.

CHAPTER 340

AN ACT to amend chapter twenty-one of the laws of eighteen hundred and forty-four, entitled "An act to cede the title and jurisdiction over certain lands in the south village of Black-Rock to the United States," in relation to the use of the ceded land for the erection and maintenance of a hospital.

Became a law March 29, 1922, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter twenty-one of the laws of eighteen hundred and forty-four,¹ entitled 'An act to cede the title and jurisdiction over certain lands in the south village of Black-Rock to the United States,' is hereby amended to read as follows:

§ 1. The commissioners of the land-office are hereby authorized to cede and convey to the United States of America, the title of this state to certain lands belonging to this state, in the south village of Black-Rock in the county of Erie, which are bounded and described as follows: Beginning at the northeast corner of Connecticut street and the Buffalo and Black Rock Railroad, thence first in a northwesterly and next in a northerly direction along the easterly side of said railroad, to a short street leading from said railroad to Massachusetts-street; thence along the south side of said short street to Broadway; thence along the west side of Broadway to Fifth-street; thence along the southwest side of Fifth-street to Rhode Island-street; thence along the southeast side of Rhode Island-street to Broadway; thence along the west side of Broadway to Fourth-street; thence along the south-west side of Fourth-street to Connecticut-street; thence along the north-west side of Connecticut-street to the place of beginning; or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a hospital,² fort, battery, barracks, parade-ground or military post; provided always, that this state shall have the right to quarry, carry off, and use for public purposes, the stone on the southwest side of the reserve, called the "Military Square," and of the reserve immediately north thereof, until the bank shall have been penetrated by such quarrying to within fifty feet of the southwest side of Fourth street; the United States of America being allowed to quarry, carry off, and use so much stone in said quarry as may be deemed necessary for the construction of the contemplated defences, together with all the buildings and other erections that may be connected therewith.

§ 2. This act shall take effect immediately.

¹ L. 1844, ch. 21 was repealed by L. 1892, ch. 678, § 45 and L. 1909, ch. 59, § 170. Its provisions were incorporated in the state law L. 1892, ch. 678, § 29, subd. 17 and L. 1909, ch. 59, § 29, subd. 17.

² Word "hospital" new.

L. 1844, ch. 21, § 1 amended.

Certain described lands to be ceded to United States.

For certain purposes; quarry rights reserved.

CHAPTER 341

AN ACT to amend chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, entitled "An act making provision for issuing bonds to the amount of not to exceed nineteen million eight hundred thousand dollars for the purpose of furnishing proper terminals and facilities for barge canal traffic, including the acquisition and interchange of property therefor, with a view to improving and fostering the commerce of the state, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and eleven," in relation to the Erie canal between Rome and Mohawk.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
746, § 4,
as amended
by L. 1921,
ch. 263,
amended.

Section 1. Section four of chapter seven hundred and forty-six of the laws of nineteen hundred and eleven, entitled "An act making provision for issuing bonds to the amount of not to exceed nineteen million eight hundred thousand dollars for the purpose of furnishing proper terminal facilities for barge canal traffic, including the acquisition and interchange of property therefor, with a view to improving and fostering the commerce of the state, and providing for a submission of the same to the people to be voted upon at a general election to be held in the year nineteen hundred and eleven," as amended by chapter three hundred and sixty-two of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 4. **Construction of terminals.** The state engineer and the superintendent of public works are hereby directed to proceed, within three months after this law shall take effect, to construct the terminals that are to be constructed, in the manner provided in this act, and in accordance with plans that shall have been approved by the canal board.

At Buffalo, in a general way, the plans prepared shall contemplate the improvement of the Erie basin, in a manner that would provide twenty-three feet of water, mean lake level, and in addition, at least three piers shall be constructed to the warehouses, and such mechanical devices and machinery for loading and unloading boats as may be necessary and expedient to meet the conditions.

The entrance to slip number three shall be widened in such manner as will permit barges one hundred and fifty feet long and forty-four feet wide to pass from the present Erie canal into the Erie basin. Slip number two from the basin to River street shall be deepened to thirteen feet at mean lake level and shall have a clear head-room of at least fifteen feet and six inches. The Erie canal from Wilkeson street north to Black Rock harbor, as being improved by the government of the United States, shall be deepened so as to give thirteen feet of water at mean lake level. The section of the canal extending southerly from Wilkeson street to and including Commercial slip may, in the discretion of the canal board, be abandoned, closed and filled; but the same shall not be

abandoned, closed or filled until after slip number three shall have been improved and the Erie basin terminals constructed as herein provided.

After this work shall have been completed, it shall be the duty of the state engineer to plan at Buffalo for the improvements by the preparation of plans for a terminal on what is known as the "outer harbor," which improvement shall consist of the building of slips and piers with a mean depth of twenty-three feet of water, to accommodate the largest lake vessels, with necessary railroad tracks, warehouse and mechanical devices for the loading and unloading of boats that may be necessary.

Four hundred feet of the southerly end of the Erie breakwater shall be removed, and the westerly end of the Delaware, Lackawanna and Western coal trestle for a distance of one hundred feet beyond shall also be removed, and the entrance from Buffalo harbor shall be deepened to twenty-three feet at mean lake level.

The Ohio basin, including the Lackawanna slip as far as Miami street, Buffalo, shall be deepened to provide a depth of thirteen feet of water at mean lake level; pile and concrete docking walls of a permanent nature shall be built around the entire basin and the slip, except across the outlet of the basin; the property belonging to the state surrounding this basin and slip shall be cleared of private occupation and the dock wall on the Louisiana street side of the basin shall be located about twenty-five feet outside of the present dock line so as to permit of the erection upon the state property of a one-story steel-reinforced concrete shed four hundred and fifty feet long by thirty feet wide, which shed shall be erected upon such property. A power-operated traveling crane of suitable power shall be provided and the necessary tracks therefor shall be laid along the entire Louisiana street side of the said basin. At said basin suitable facilities for the loading and unloading of freight shall be provided as may be recommended by the superintendent of public works and approved by the canal board. The entrance to the Ohio basin shall be widened to the limits of the state property and shall be dredged to a depth of thirteen feet at mean lake level and shall have unlimited headroom.

The present Erie canal, north of Wilkeson street, shall be maintained and the property belonging to the state lying along this canal shall not be sold, leased, or otherwise disposed of. With a view of hereafter providing small local terminals at the most convenient locations to be selected by the superintendent of public works along this section of the canal, and when approved by the canal board, the state property lying back of the dock walls at such locations as may be selected shall be cleared of private occupation.

At North Tonawanda and Tonawanda the section of concrete vertical wall lying on both sides of Tonawanda creek between Main street and the Lehigh Valley railroad bridge, which have been constructed pursuant to the provisions of chapter one hundred and forty-seven of the laws of nineteen hundred and three shall be reserved for docking purposes. The land lying between Main

street; the Lehigh Valley railroad bridge, the southerly boundary of Sweeney street and the creek shall be reserved and developed for terminal purposes in accordance with plans to be prepared by the state engineer and approved by the canal board, and the land within said boundaries which is not now owned by the state shall be acquired by the state. There may be erected upon this property on the north side of the creek a steel-reinforced concrete one-story shed one hundred and fifty feet long by thirty feet wide. On the opposite or south side of the creek, and back of the wall already constructed, the land not now owned by the state lying between Main street, the Lehigh Valley railroad bridge and the northerly boundary line of Niagara street shall be acquired by the state. All such land now owned or hereafter acquired by the state included within the above-named boundaries and the face of the dock walls shall be suitably paved and reserved for public terminal purposes. Adequate freight-handling machinery shall be installed at said terminals where required in the discretion of the superintendent of public works and with the approval of the canal board.

Upon the recommendation of the superintendent of public works, and in the discretion of the canal board, it is hereby provided that in addition to the land now owned by the state along Tonawanda creek sufficient land bordering on the south side of Tonawanda creek canalized be acquired by the state to form a strip five hundred feet wide and extending eleven thousand feet easterly from Hanover street in the city of Tonawanda and that on the north side of Tonawanda creek canalized sufficient land be acquired by the state to form a strip five hundred feet wide and extending eight thousand feet easterly from Division street in the city of North Tonawanda.

Upon the recommendation of the superintendent of public works, and in the discretion of the canal board, there shall be acquired by the state for terminal purposes, at an expense not exceeding seventy thousand dollars, the lands lying between the present Erie canal and the Niagara river and extending from opposite the state ditch southwesterly about twenty-seven hundred feet to property now owned by the Grand Island Ferry Company.

At Rochester there shall be constructed, in accordance with plans made by the state engineer and surveyor and approved by the canal board, a concrete wall along the east bank of the Genesee river, extending southerly from a point four hundred feet south of the location of the new dam. Measuring from the face of the said dock wall there shall be acquired by the state enough land to give it possession of a strip of land one hundred feet wide, said strip to extend the full length of the dock wall and also to a point about three hundred feet from the Clarissa street bridge, between which point and the bridge the width of the reservation shall be narrowed enough to permit the new location of the railroad, hereinafter provided for, to connect with the present location at a point near the bridge. The tracks and structures of the Lehigh Valley railroad shall be removed from this strip for the full distance between the beginning of the dock wall and Clarissa street.

Upon the area so acquired there may be built a suitable warehouse and mechanical devices for the transfer of freight. From the Clarissa street bridge the strip of land herein provided to be acquired by the state shall be reserved for its entire length for public use and shall be preserved free from private occupation. An approach shall be built to South avenue passing under the railroad tracks which shall be elevated for that purpose and sufficient land shall be acquired to the north of the proposed dock to permit of such approach. Upon the recommendation of the superintendent of public works, and upon the approval of the canal board, if they shall deem other approaches to the docks necessary, such approaches may be made from Mount Hope avenue over a grade crossing to be located between Hickory and Averill streets, and from Court street, or from either of said streets. The Genesee river canal feeder between the present Erie canal and Clarissa street shall be filled in.

The portions of the trackage, yards and other structures of the Lehigh Valley Railroad Company which it shall be necessary to remove from their present location as hereinbefore provided may be relocated upon the state lands which shall be reclaimed from the Genesee river canal feeder, and so much of such state lands as shall be required to give the Lehigh Valley Railroad Company at the new location an area equal to that taken from it at its old location may be ceded in payment or partial payment for the lands of the company acquired by the state to the said Lehigh Valley Railroad Company, and further provided, if the state land so to be ceded to the Lehigh Valley Railroad Company shall not be sufficient to give the said railroad company at its new location an area equal to that taken by the state at the said railroad company's old location, the state shall acquire and convey to the Lehigh Valley Railroad Company sufficient of the land adjacent to the state land, which together with the state land will equal the area taken from the said Lehigh Valley Railroad Company at its old location.

In the discretion of the canal board, a concrete dock wall shall be constructed approximately five hundred feet long, and paralleling Plymouth avenue, to be located just northerly of the old state dam at the head of the Genesee river canal feeder, and the area now owned by the city of Rochester lying between the face of the said dock wall and Plymouth avenue shall be suitably paved. The improvement provided for shall be made by the state in the method herein provided as to other improvements authorized by this act when the city of Rochester shall have ceded to the state the land it now owns lying between the face of the said dock wall and Plymouth avenue, and further when the city of Rochester shall have entered into and executed an agreement with the state stipulating that the said city of Rochester shall not sell, lease or otherwise dispose of any of the property which it now owns adjacent to the property hereinabove provided to be ceded to the state, and to reserve said land until needed for the future enlargement of this terminal. After the terminals hereinabove provided for shall have been completed such portions of the Genesee river

canal feeder within the city of Rochester which are not necessary for such terminals may be abandoned and may be ceded to the city of Rochester.

At Lyons, in the vicinity of the south abutment of the Geneva street bridge there shall be constructed a dock or terminal in accordance with plans drawn by the state engineer and surveyor and approved by the canal board, and in addition thereto a suitable warehouse to be constructed to meet the needs of traffic.

At Syracuse, there shall be constructed a harbor in accordance with plans prepared by the state engineer and surveyor and approved by the canal board at the southerly end of Onondaga lake between the Boulevard drive and Spring street. The plans shall provide the necessary docking facilities, warehouse, and mechanical freight handling machinery; and all parts of acts or laws inconsistent with this provision are hereby repealed.

At Oswego, a terminal shall be constructed at the junction of the Oswego river and Lake Ontario in accordance with plans prepared by the state engineer and surveyor and approved by the canal board; such terminal to be located on lands to be acquired from the United States government if possible, between the prolongation of West Third street and the Oswego river, or at some other location in this vicinity, if so selected by the canal board. The harbor improvement shall provide the necessary piers, warehouse, mechanical freight handling devices and machinery that may be deemed necessary for the proper entering of boats.

At Utica, there shall be constructed a harbor in accordance with plans to be prepared by the state engineer and surveyor and approved by the canal board, from a point approximately north of the west end of the river straightening channel so called, down the old Mohawk river channel to a point at or near Lee street. The plans shall provide the necessary docks, docking facilities, warehouses and mechanical freight handling machinery and devices for loading and unloading of boats and the handling of canal traffic in a satisfactory manner; and the said state engineer may in his discretion, subject to the approval of the canal board, for the purpose of providing additional terminals, build such other necessary locks, docks and dams along the line of the river straightening channel, so called, as he may deem necessary and proper.

At Rome, there shall be constructed a harbor in accordance with the plans prepared by the state engineer and surveyor, and approved by the canal board, on the south side of the relocated street to be constructed by the state to take the place of the abandoned Whitesboro street near the junction of Mill street. The plans shall provide necessary docking facilities, warehouses and mechanical freight handling machinery.¹

¹ Sentence omitted which read: "The present Erie canal between Rome and Mohawk; except the portion thereof in the city of Utica between the westerly line of Schuyler street and the easterly line of Third street, shall be retained at not less than its present dimensions, and all structures, locks, bridges and docks thereon shall be maintained and operated by the state for terminal purposes." This amendment is in accordance with constitution, art. 7, § 8, as amended 1921.

At Troy, there shall be constructed a harbor or terminal in accordance with plans prepared by the state engineer and surveyor and approved by the canal board, on the east side of the Hudson river in the city of Troy, at a point approximately between Adams and Congress streets, and the state engineer may in his discretion subject to the approval of the canal board, for the purpose of providing additional terminals, build a local terminal on the east side of the Hudson river between Congress street and Federal street. The plans for each of such terminals shall provide the necessary docking facilities, warehouses and mechanical freight handling machinery that may be necessary.

At Albany, there shall be constructed a suitable harbor or terminal in accordance with plans prepared by the state engineer and surveyor and approved by the canal board, at a location on the westerly side of the Hudson river between the entrance of the present Erie canal and the northerly end of the lumber district (so-called). The plans shall provide the necessary docking facilities, warehouses and mechanical freight handling machinery that may be necessary.

Canal terminals or harbors shall also be built upon plans prepared by the state engineer and approved by the canal board at Lockport, Herkimer, Little Falls, Fort Plain, Canajoharie, Schenectady, Rouses Point, Port Henry, Plattsburg, Whitehall, Mechanicville, Troy and Albany.

At each of the localities mentioned the plans shall provide for the necessary docks, warehouses and mechanical devices for the loading and unloading of boats and the handling of canal traffic in a satisfactory manner.

§ 2. This act shall take effect immediately.

CHAPTER 342

AN ACT to provide for a re-survey, by the state engineer and surveyor, of part of the boundary line between the states of New York and Connecticut, and, pending such survey, its acceptance and approval, to fix the boundary line as to such part according to the agreement between such states, made December eighth, eighteen hundred and seventy-nine, thereby superseding in part the existing provisions of section two of the state law.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York; represented in Senate and Assembly, do enact as follows:

Section 1. There being a dispute as to the correct location of that part of the boundary line between the states of New York and Connecticut which extends from monument number one, at the northwest corner of the state of Connecticut, to monument number twenty-one, on the cliff north of Webatuck creek, the state engineer and surveyor is hereby directed to re-survey the part of such boundary line extending between such monuments one and twenty-one, to prepare in duplicate a map or plan of such

State engineer to re-survey part of boundary line.

Boundary
line pend-
ing re-sur-
vey.

re-survey and to file one in the office of the secretary of state of the state of New York and transmit one to the governor of the state of Connecticut. Notwithstanding the provisions of section two of the state law, as last amended by chapter eighteen of the laws of nineteen hundred and thirteen, until such re-survey is completed and the boundary line between such states, as shown by such re-survey, is established, accepted and approved according to law, the boundary line between such states, from the said monument number one to the said monument number twenty-one, shall be that defined in the report, dated February eighth, eighteen hundred and sixty-one, of the commissioners of the state of New York, acting pursuant to chapter one hundred and fifty-nine of the laws of eighteen hundred and sixty, being the report adopted by agreement between commissioners of New York and Connecticut, made December eighth, eighteen hundred and seventy-nine, and consented to by act of congress approved February twenty-sixth, eighteen hundred and eighty-one.

Notice to
governor of
Connecti-
cut.

§ 2. Before making such re-survey, the state engineer and surveyor shall give written notice, by mail, to the governor of the state of Connecticut, of the time when, not less than thirty days after the mailing of such notice, and of the place where, such survey shall be commenced, and inviting the state of Connecticut to have representatives of such state present to inspect and advise as to such re-survey, as it progresses, but the state engineer and surveyor shall proceed, in any event, with such re-survey, at or after the time specified in such notice.

Copy of
this act to
be trans-
mitted to
governor of
Connecti-
cut.

§ 3. The secretary of state is directed to transmit a copy of this act, as soon as it becomes law, to the governor of the state of Connecticut, and to file in the office of the secretary of state the acknowledgment of its receipt by such governor.

§ 4. This act shall take effect immediately.

CHAPTER 343

AN ACT to amend the education law, in relation to the election of members of the board of education in cities of the third class.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 4b
added to L.
1909, ch. 21
(revision of
L. 1910, ch.
140), § 368,
as added by
L. 1917, ch.
788.

Section 1. Section eight hundred and sixty-six of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such section having been added by chapter seven hundred and eighty-six of the laws of nineteen hundred and seventeen, is hereby amended by inserting therein a new subdivision, to be subdivision four-b, to read as follows:

4-b. In any third class city in which members of the board of education are not elected at an annual school election as provided in article seven-a of this chapter, the common council may by a majority vote submit to the voters at large in such city at any general or municipal election, the question whether members of the board of education in such city shall thereafter be so elected. If a majority of the votes cast at such election be in the affirmative, members of a new board of education to consist of five members shall be elected at an annual school election to be held in such city on the first Tuesday of the following May, for terms of one, two, three, four and five years respectively, and the term of office of each member of the old board of education shall cease and terminate on such first Tuesday in May. As the terms of members of the new board of education expire their successors shall be chosen, at the annual school election to be held in such city, for the full term of five years.

§ 2. This act shall take effect immediately.

CHAPTER 344

AN ACT to amend the education law, relative to providing accommodations for teachers.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and ten of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended by adding at the end thereof a new subdivision, to read as follows:

22. To provide, purchase, lease, furnish and maintain buildings or other suitable accommodations for the use of teachers employed in the district when duly authorized by a meeting of the district and to raise by tax upon the taxable property of the district the moneys necessary for such purposes.

§ 2. This act shall take effect immediately.

CHAPTER 345

AN ACT to amend the education law, relative to libraries and library corporations.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eleven hundred and seventeen of chapter twenty-one of the laws of nineteen hundred and nine, entitled

Proposition for election of members of boards of education in certain cities of third class.

Subd. 22 added to L. 1909, ch. 21 (revision of L. 1910, ch. 146), § 210.

L. 1909, ch. 21 (revi-

sion of L. 1918, ch. 140), § 1117, as amended by L. 1921, ch. 385, amended.

"An act relating to education, constituting chapter sixteen of the consolidated laws," as last amended by chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 1117. **Public and association libraries and museums.** 1. All provisions of this section and of sections eleven hundred and eighteen to eleven hundred and thirty-four inclusive shall apply equally to libraries, museums, and to combined libraries and museums, and the word "library" shall be construed to mean reference and circulating libraries and reading rooms.

2. The term "public" library as used in this chapter shall be construed to mean a library, other than professional, technical or public school library, established for free public purposes by official action of a municipality or district or the legislature, where the whole interests belong to the public; the term "association" library shall be construed to mean a library established and controlled, in whole or in part, by a group of private individuals operating as an association,¹ corporation, or as trustees under the provisions of a will or a deed of trust; and the term "free" as applied to a library shall be construed to mean a library maintained for the benefit and free use on equal terms of all the people of the community in which the library is located.

§ 1118b, as added by L. 1921, ch. 385, amended.

§ 2. Section eleven hundred and eighteen-b of such chapter, as added by chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 1118-b. **County libraries.** By majority vote of any election, or by vote of its board of supervisors, any county may establish a county public library with or without branches and may levy annually and cause to be collected, as are other general taxes, a tax of not more than one mill nor less than one-third of a mill upon each dollar of the assessed valuation of the taxable property of such county, except that the tax shall not be less than one-half of a mill where the assessed valuation of the county is less than one hundred million dollars, to equip and maintain such library and branches or to provide buildings or rooms for its or their use; provided, however, that any incorporated city, village, town or school district contributing to the support of a free library registered by the regents, by annual taxation to a total amount equivalent to that which would be raised under the proposed county library tax in such city, village, town or school district, or which is receiving such amount annually for library purposes from invested funds or from a combination of invested funds and annual taxation, may, by majority vote at election or at a meeting of the electors duly held, or by vote of its common council any city, claim exemption from such county library tax; and such city, village, town or school district shall not participate in the benefits of such county public library unless by contract as provided in section eleven hundred and eighteen-a, or until it

¹ Word "close" omitted.

shall elect to be included in the county tax levy for such county public library maintenance and shall make official notification of such action to the county board of supervisors. The chief administrative office of a county public library shall be located in the county seat unless another city or village in the county exceeds such county seat in population by more than twenty per centum according to the latest federal census or state enumeration in which event the county library shall be located in the largest city or village of such county and shall not thereafter be removed to another city or village by reason of a change in population. In lieu of establishing and maintaining a county public library as hereinbefore provided a county may enter into a contract for library service with any free library registered by the regents, upon such terms and conditions as may be agreed upon, and the amount agreed to be paid for such privileges shall be a binding charge on the county and shall be raised in the same manner, and with the same provisions for exemptions,² as hereinbefore provided for a county public library. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election at which taxes may be voted, provided that due public notice of the proposed action shall have been given.

§ 3. Subdivision one of section eleven hundred and twenty-three of such chapter, as amended by chapter one hundred and thirteen of the laws of nineteen hundred and eighteen and chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

§ 1122,
subd. 1, as
amended by
L. '918,
ch. 113, and
L. 1921,
ch. 385,
amended.

§ 1123. Trustees. 1. Public libraries established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this chapter; provided that the number of trustees shall be five; that in cities they shall be appointed by the mayor and confirmed by the common council, in counties they shall be appointed by the county board of supervisors, in villages they shall be appointed by the village board of trustees, in towns they shall be appointed by the town board, and in school districts they shall be elected by the legal voters; that the first trustees shall determine by lot the year in which the term of office of each trustee shall expire and that a new trustee shall be elected or appointed annually to serve for five years. 'The charter of any public library granted prior to April thirtieth, nineteen hundred and twenty-one, which provides for trustees, their terms of office and method of election or appointment in a manner differing from that hereinbefore provided, shall remain in full force and effect until the regents, upon application of the library trustees, shall amend the charter to con-

² Words "and with the same provisions for exemptions," new.

³ Subd. 1 was amended by L. 1922, ch. 113, ante. The amendments made by said ch. 113 are substantially identical with those here effected.

⁴ Following sentence new.

form to the provisions of law in effect when such amendment is made.

§ 1129, as amended by L. 1921, ch. 385, amended.

§ 4. Section eleven hundred and twenty-nine of such chapter, as last amended by chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 1129. **Transfer of libraries.** By vote similar to that required by section eleven hundred and eighteen of this chapter any municipality or district or combination of districts, or by action of its trustees at a meeting duly held any association library, incorporated or registered by the regents may, when such vote or action has been duly approved by the regents, transfer, conditionally as provided in section eleven hundred and nineteen of this chapter, or otherwise, the ownership and control of its library with all its property, real and personal, or any part thereof, to any municipality, or district, or institution providing for free library service;⁵ and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

§ 1133, as amended by L. 1921, ch. 385, amended.

§ 5. Section eleven hundred and thirty-three of such chapter, as last amended by chapter three hundred and eighty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 1133. **Apportionment of money for grants to libraries.** Such sum as shall have been appropriated by the legislature for grants to libraries shall be paid annually by the treasurer, on the warrant of the comptroller, from the income of the United States deposit fund, according to an apportionment to be made by the regents for the benefit of free libraries in accordance with regents' rules and authenticated by their seal; provided that none of such sum shall be spent for books except those approved or selected and furnished by the regents; that from such sum each free circulating library complying with regents' requirements shall receive an apportionment of one hundred dollars annually except that no library shall receive an amount greater than that provided for the same purpose from local sources;⁶ that for any part of the apportionment not payable directly to the library trustees the regents shall file with the comptroller proper vouchers showing that it has been spent in accordance with law for books for free libraries or for proper expenses incurred for their benefit; and that books paid for by the state shall be subject to return to the regents whenever a library shall neglect or refuse to conform to the ordinances under which it secured them.

§ 6. This act shall take effect immediately.

⁵ Words "institution providing for free library service," substituted for words "free library registered by the regents."

⁶ Words "from such sum each free circulating library . . . from local sources," substituted for words "no locality shall share in the apportionment unless it shall raise and use for the same purpose not less than an equal amount from taxation or other local sources."

CHAPTER 346

AN ACT to amend the education law, relative to the issue and sale of bonds for school purposes in certain cities.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eight hundred and seventy-seven of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, as inserted by chapter seven hundred and eighty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

2. In a city which had, according to the state census of nineteen hundred and fifteen, a population of less than fifty thousand such estimate shall be filed with the clerk of the common council and the common council shall include, except as otherwise provided herein, in the next annual tax and assessment roll of the city the amount specified in such estimate and the same shall be collected in the same manner as other city taxes are collected and shall be placed to the credit of the board of education as herein provided. In each city in which the law provides, prior to the time this article goes into effect, that such assessment shall be included in a school tax and assessment roll, separate and distinct from the annual tax and assessment roll, and at a different time, such assessment shall continue to be included in a school tax and assessment roll, to be prepared and levied at the same time each year as the law provides in respect to said cities prior to the time this article goes into effect. In case more than twenty-five thousand dollars is required to be raised by tax for the purposes specified in paragraph c of subdivision one of this section, the common council, or the board of education, or either, may provide for the submission to the voters of the city, at a tax election, the proposition for the expenditure of such sum or may levy a tax to be payable in instalments, for such purposes, and may issue and sell municipal bonds as hereinafter provided.¹ In case the submission is made by the board of education, the election shall be called and held in the manner provided by section eight hundred and seventy-eight. In case the submission is made by the common council, the provisions of law regulating tax elections in such cities shall apply to and govern the method of calling and holding such election. In either case the result of the election

L. 1921, ch. 21 (revision of L. 1916, ch. 140), § 877, subd. 2, as added by L. 1917, ch. 786, amended.

Annual estimate for school purposes in city of under 50,000.

Submission of proposition for construction of buildings, etc.

¹ Sentence omitted which read: "In cities in which the board of education is either appointed, or is elected at a general or municipal election, the submission of such question shall be to the voters of such city at either a general or municipal election." Remainder of subd. 2 new.

shall be ascertained and determined by a majority of the votes cast on the proposition submitted. Where the submission is made by the board of education, city bonds may be issued by such board, and where the submission is made by the common council, city bonds may be issued by such common council, in the manner and to the extent provided in section eight hundred and seventy-nine, subdivision one.

§ 878, subd. 1, as added by L. 1917, ch. 789, amended.

Tax election for construction of school buildings, etc., in city of under 75,000.

§ 2. Subdivision one of section eight hundred and seventy-eight of such chapter, as inserted by chapter seven hundred and eighty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

1. In a city having a population of less than seventy-five thousand, according to the federal census of nineteen hundred and ten, the board of education may call a tax election, by giving notice thereof as notice is required under the education law of an annual school election and submit to those qualified to vote at such election a proposition to expend a sum of money in excess of twenty-five thousand dollars for any of the purposes enumerated in paragraph c of subdivision one of section eight hundred and seventy-seven of this chapter. The provisions of law relating to and governing annual school elections, including inspectors, notices, qualifications of voters, challenges, hours for keeping polls open, penalties, canvass of votes, filing returns, supplying ballots, and all other matters relating to an annual election shall apply to and govern, so far as may be practicable, a tax election except in a city in which the election of members of the board of education is held at the general or municipal election. In such city² the law applying to and governing such general or municipal elections shall apply to and govern such tax election.³ In such a city, where the members of the board of education are appointed, the provisions of article seven-a, so far as may be, shall apply to the calling and holding of such election; except that the board of education may adopt the division of the city into election districts theretofore made by the common council, in which case the notice of election need not describe the boundaries of each election district, but it shall be sufficient if such notice specify the schoolhouse or other places wherein such election shall be held; nor shall it be necessary to state in such notice of election that the poll lists have been filed, as provided in section two hundred and twelve; provided, however, that in cities having a population of more than fifty thousand by the last preceding census the secretary or clerk of the board of education shall, prior to such election, prepare a poll list for each election district and file the same for public inspection in his office not less than ten days prior to the election.

§ 3. This act shall take effect immediately.

² Word "city" substituted for word "cities."

³ Remainder of subd. 1 new.

CHAPTER 347

AN ACT to amend the education law, in relation to the board of control of the agricultural and domestic service school at Delhi, Delaware county.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten hundred and fifty-six of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, such section being added by chapter six hundred and seventy-five of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

§ 1056. **Management and control.** The care, management and control of said school, property and premises shall be exercised by a board of control, composed of nine¹ trustees. The state commissioner of farms and markets,² the commissioner of education³ and the director of the New York State Agricultural School at Cornell University shall, ex officio, be members of such board. The other six⁴ trustees shall be appointed by the governor by and with the consent of the senate. At least three⁵ of such trustees shall be residents of the county of Delaware and one of such trustees shall be a person recommended by the state grange, if such recommendation be made. Two of such appointed trustees shall be appointed for a term of two years each and three for a term of four years each. The additional member of such board hereby created, shall be appointed for a term to expire at the same time as the two other members of such board, expiring in the year nineteen hundred and twenty-three. Upon the expiration of the terms of office of such appointed trustees their successors shall be appointed for a term of four years each. Such trustees shall serve for the terms for which they are respectively appointed and until their successors have been appointed and qualified. In case of any vacancy in the office of any trustee his successor shall be appointed for the unexpired term for which he was appointed. Such trustees shall serve without compensation.

§ 2. This act shall take effect immediately.

¹ Formerly "seven."

² Words "farms and markets" substituted for word "agriculture."

³ Words "the commissioner of education" new.

⁴ Formerly "five."

⁵ Formerly "two."

⁶ Following sentence new.

L. 1909, ch. 21 (revision of L. 1910, ch. 140), § 1056, as added by L. 1913, ch. 675, amended.

CHAPTER 348

AN ACT to amend the executive law, in relation to the publication of notices.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 23, § 82, as amended by L. 1921, ch. 686, amended.

Section 1. Section eighty-two of chapter twenty-three of the laws of nineteen hundred and nine, entitled "An act in relation to executive officers, constituting chapter eighteen of the consolidated laws," as last amended by chapter six hundred and thirty-six of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 82. **Publication at Albany of certain public notices.** The secretary of state, comptroller and treasurer shall, on or before the first day of January in each year, designate a daily newspaper, published in the city of Albany, to be known as the state paper, in which shall be published during the following year, all appointments of terms of the supreme court; the rules of practice adopted from time to time by the judges of the court of appeals and a convention constituted pursuant to the judiciary law;¹ and notices and advertisements required to be published in a newspaper by state officers, or by a department, board, bureau or commission of the state, or in actions against foreign corporations. The publication of such notices and advertisements shall be additional to their publication in other newspapers.

§ 2. This act shall take effect immediately.

CHAPTER 349

AN ACT to amend the highway law, in relation to release from custody of a person charged with the violation of the provisions of such law relating to motor vehicles and motor cycles.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 290, subd. 10, as amended by L. 1921, ch. 680, amended.

Section 1. Subdivision ten of section two hundred and ninety of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," such section having been last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one^{1a} is hereby amended to read as follows:

10. Release from custody, bail, et cetera. In case any person

¹ Words "the laws of the state" omitted.

^{1a}As added by L. 1910, ch. 374, and previously amended by L. 1917, ch. 769 and L. 1921, ch. 85.

shall be taken into custody charged with a violation of any of the provisions of this article, he shall forthwith be taken before the nearest magistrate or other officer having the power of a magistrate,² captain, lieutenant, clerk of the court, acting lieutenant.³ Such person shall⁴ be entitled to an immediate hearing or admission to bail, and if such hearing cannot then be had before a magistrate or other person having the power of a magistrate,⁵ be released from custody on giving a bond or undertaking, executed by a fidelity or surety company authorized to do business in this state, or other bail in the form provided by section five hundred and sixty-eight of the code of criminal procedure, such bond or undertaking to be in an amount not exceeding one hundred dollars, except as herein provided where the charge is a violation of subdivision three of section two hundred and ninety of this article, for his appearance to answer for such violation at such time and place as shall then be indicated. On giving his personal undertaking to appear to answer any such violation at such time and place as shall then be indicated, secured by the deposit of a sum of money equal to the amount of such bond or undertaking, or in lieu thereof, in case the person taken into custody is the owner, by leaving the motor vehicle, or in case such person taken into custody is not the owner, by leaving the motor vehicle as herein provided with a written consent given at the time by the owner who must be present, with such officer; or in case such person is taken into custody because of a violation of any of the provisions of this article other than on a charge of violating any of the provisions of subdivision three of section two hundred and ninety and such officer is not accessible, be forthwith released from custody on giving his name and address to the person making the arrest and depositing with such arresting officer the sum of one hundred dollars, or in lieu thereof, in case the person taken into custody is the owner, by leaving the motor vehicle, or, in case such person taken into custody is not the owner, by leaving the motor vehicle with a written consent at the time by the owner who must be present; provided that, in any such case, the officer making the arrest shall give a receipt in writing for such sum or vehicle deposited and notify such person to appear before the most accessible magistrate, describing him, and specifying the place and hour. In case such bond or undertaking shall not be given or deposit made by the owner or other person taken into custody, the provisions of law in reference to bail, in case of misdemeanor, shall apply. Where the charge is a violation of subdivision three of section two hundred and ninety of this article, the provisions of the code of criminal procedure in reference to bail in cases of a misdemeanor shall apply exclusively.

§ 2. This act shall take effect immediately.

² Words "or other officer having power of a magistrate," new.

³ Words "who shall have the power of a magistrate and," omitted.

⁴ Words "Such person shall" new.

⁵ Words "before a magistrate or other person having the power of a magistrate," new.

CHAPTER 350

AN ACT to legalize acts and proceedings relating to the Port Jefferson fire district, in the village of Port Jefferson and town of Brookhaven, in the county of Suffolk, and to authorize the issuance of bonds or certificates of indebtedness of such district.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceed-
ings rela-
tive to
formation
of fire dis-
trict, legal-
ized.

Section 1. The resolution of the board of supervisors of the county of Suffolk, New York, bearing date the fifteenth day of September, eighteen hundred and ninety, and duly adopted upon said day, purporting to form a fire district in the village of Port Jefferson, town of Brookhaven, Suffolk county, New York, and all the acts and proceedings of the taxpayers, the officers and agents of such district leading up to and including such resolution and all acts subsequent thereto relating to the formation thereof, and all other acts by such board of supervisors or under their direction, heretofore taken pursuant thereto, are hereby legalized, ratified and confirmed, notwithstanding any defect, irregularity or omission of any lawful requirement in, or lack of statutory authority for such resolution, or in or for the formation of such fire district or any of such acts and proceedings.

Proceed-
ings rela-
tive to ex-
tension of
fire dis-
trict, legal-
ized.

§ 2. The resolution of the board of supervisors of the county of Suffolk, New York, bearing date the fourteenth day of November, nineteen hundred and four, and duly adopted upon said day consenting to the extension of the fire district in the village of Port Jefferson, town of Brookhaven, Suffolk county, New York, and all the acts and proceedings of the taxpayers, the officers and agents of such district as so attempted to be extended, leading up to and including such resolution and all acts subsequent thereto relating to the extension thereof, and all other acts by such board of supervisors or under their direction, heretofore taken pursuant thereto, are hereby legalized, ratified and confirmed, notwithstanding any defect, irregularity or omission of any lawful requirement in, or lack of statutory authority for such resolution, or in or for the extension of such fire district or any of such acts or proceedings, and said fire district is hereby extended as thus attempted and consented to by the board of supervisors.

Proceed-
ings rela-
tive to
further ex-
tension of
fire dis-
trict, legal-
ized.

§ 3. The resolution of the board of supervisors of the county of Suffolk, New York, bearing date the thirtieth day of June, nineteen hundred and nineteen, and duly adopted upon said day consenting to the extension of the fire district in the village of Port Jefferson, town of Brookhaven, Suffolk county, New York, and all the acts and proceedings of the taxpayers, officers and agents of such district as so attempted to be extended, leading up to and including such resolution and all acts subsequent thereto relating to the extension thereof, and all other acts by

such board of supervisors or under their direction heretofore taken pursuant thereto, are hereby legalized, ratified and confirmed, notwithstanding any defect, irregularity or omission of any lawful requirement in, or lack of statutory authority for such resolution, or in or for the extension of such fire district or any of such acts or proceedings, and said fire district is hereby extended as thus attempted and consented to by the board of supervisors.

§ 4. All the acts and proceedings had and taken by the acting fire commissioners, the officers, agents and qualified voters and taxpayers of the Port Jefferson fire district, town of Brookhaven, New York, and the town clerk of the town of Brookhaven, leading up to and including the special election held in said town on the twenty-eighth day of March, nineteen hundred and twenty-one, whereby it was directed that the sum of eleven thousand dollars should be raised by taxation within said fire district for the purchase of fire apparatus and improvements to the fire house in said district, are hereby legalized, ratified and confirmed notwithstanding any defect, irregularity or omission of any such acts or proceedings or the lack of any statutory authority for such acts and proceedings.

Proceedings relative to raising money for certain purposes, legalized.

§ 5. All the acts and proceedings of the fire commissioners of the Port Jefferson fire district subsequent to the said special election are hereby legalized, ratified and confirmed, notwithstanding any defect, irregularity or omission of any lawful requirement in or the want of any statutory authority for such acts and proceedings; and the said fire commissioners of the said Port Jefferson fire district are hereby authorized and empowered to issue bonds or certificates of indebtedness for such improvement or public use heretofore mentioned and to sell and deliver the same upon the receipt of the amount paid therefor; and the said bonds or certificates of indebtedness when so delivered and paid for, at not less than par value, shall become and be binding and valid obligations against the taxable property of said fire district as now existing with all extensions.

Proceedings of fire commissioners, legalized.

Issue of bonds or certificates of indebtedness, authorized.

§ 6. In case the purchaser or purchasers of said bonds or certificates of indebtedness shall, for any reason, decline to consummate the sale thereof and accept the same, the said fire commissioners of the Port Jefferson fire district are hereby authorized and empowered to sell the bonds or certificates of indebtedness in the manner provided by law. This act shall not affect any action or proceeding now pending in any court of the state of New York.

Resale when purchasers decline to consummate sale.

§ 7. This act shall not affect any action or proceeding now pending in any court.

Pending actions.

§ 8. This act shall take effect immediately.

CHAPTER 351

AN ACT to amend the religious corporations law, in relation to changing the number of trustees.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 53, § 197, as amended by L. 1910, ch. 249, amended.

Section 1. Section one hundred and ninety-seven¹ of the laws of nineteen hundred and nine, entitled "An act in relation to religious corporations, constituting chapter fifty-one of the consolidated laws," as amended by chapter two hundred and forty-nine of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 197. **Changing number of trustees.** An incorporated church to which this article is applicable, may, at an annual corporate meeting, change the number of its trustees to three, six, nine,² twelve, fifteen or eighteen,³ or classify them so that the terms of one-third expire each year. No such change shall affect the terms of the trustees then in office, and if the change reduces the number of trustees, it shall not take effect until the number of trustees whose terms of office continue for one or more years after an annual election is less than the number determined on. Whenever the number of trustees so holding over is less than the number so determined on, trustees shall be elected in addition to those so holding over, sufficient to make the number of trustees for the ensuing year equal to the number so determined on. The trustees so elected up to and including one-third of the number so determined on, shall be elected for three years, the remainder up to and including one-third of the number so determined on for two years, and the remainder for one year.

§ 2. This act shall take effect immediately.

CHAPTER 352

AN ACT to amend the surrogate's court act, in relation to drawing of a jury for service in surrogate's court.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 70 amended.

Section 1. Section seventy of the surrogate's court act is hereby amended to read as follows:

¹ Words "of chapter fifty-three" inadvertently omitted.

² Word "or" omitted.

³ Words "fifteen or eighteen" new.

§ 70. Jury; how obtained; fees of jurors and officers. The surrogate may at any time order the drawing of a jury for service in surrogate's court, upon reasonable notice to the parties who have appeared, stating the day, hour and place of such drawing,¹ except that in the counties embraced within the city of New York is shall not be necessary to give such notice.

For the purpose of procuring the drawing and attendance of a jury, the surrogate shall have all the powers of a justice of the supreme court specified in sections five hundred and twenty-seven and five hundred and twenty-eight of the judiciary law and also in relation to requiring the attendance of talesmen, and the clerk of the county of the surrogate shall, upon receiving the order of the surrogate, perform such duties in relation thereto as he is required to perform under a like order of a justice of the supreme court as specified in such sections.

Such jury shall be drawn in the presence of the surrogate, either in his office or in the office of the county clerk, and the minutes thereof shall be made in triplicate, and be signed by the surrogate and the county clerk, and one copy thereof filed in the office of the surrogate, one copy filed in the office of the county clerk, and one copy delivered to the sheriff of the county.

The names of the jurors so drawn shall be returned to the jury box by the county clerk, but if any such juror is again drawn for service in any court, the fact that he served as a juror in surrogate's court shall, upon his request, be a sufficient excuse for not being required to again serve.

In counties where by special act an officer other than the county clerk is designated to draw juries and perform corresponding acts, such officer shall cause the necessary jurors to be summoned and drawn as though a justice of the supreme court had made such order.

The provisions of law applicable to the summoning of jurors, the return of the sheriff, the fees of the sheriff and jurors and their payment, in supreme court, shall apply where jurors are drawn and summoned for service in surrogate's court; and where the county clerk is not a salaried officer, he shall be entitled for his services to such compensation as shall be audited by the board or body entitled to fix his compensation.

The number of days' service of each juror in surrogate's court shall be certified to the county clerk by the clerk of the surrogate's court.

§ 2. This act shall take effect immediately.

¹ Remainder of sentence new.

CHAPTER 353

AN ACT to amend the stock corporation law, in relation to the filing of reports of existence.

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 24d added to L. 1909, ch. 61.

Section 1. Chapter sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to stock corporations, constituting chapter fifty-nine of the consolidated laws," is hereby amended by adding, at the end of article two thereof, a new section, to be section twenty-four-d, to read as follows:

§ 24-d. **Report of existence.** 1. Not later than the thirty-first day of December in the year nineteen hundred and twenty-two, there shall be filed in the office of the secretary of state by or on behalf of every stock corporation organized under the laws of this state prior to the first day of January in the year eighteen hundred and ninety-eight, other than a corporation which has paid a franchise tax subsequent to January first nineteen hundred and nineteen and other than a corporation organized by or under a special act and other than a banking, insurance, transportation or railroad corporation, a written report which shall state the name of the corporation and that said corporation is in existence. Such report shall be signed by an officer or director of the corporation who shall add the title of his office or the word "director," as the case may be, and his post-office address, to his signature. If the secretary of state shall discover that his records indicate that there are two or more corporations having the name stated in the report offered for filing, he may return the same and require the inclusion therein of additional statements to identify the corporation.

2. The secretary of state shall, not later than the thirty-first day of December in the year nineteen hundred and twenty-three, transmit to the governor the names of such corporations as appear by the records of his office and the records of the state tax commission to be included in the class of corporations which, by the preceding paragraph of this section, are required to report, and which have failed to do so. The names so transmitted shall be grouped in separate lists so that each list shall contain the names of such corporations as, according to the records of the secretary of state, have their principal offices in the same county. Those corporations as to which the secretary of state is unable to determine from his records the counties in which their principal offices are located shall be separately listed and transmitted.

3. Upon receipt of such lists from the secretary of state the governor shall issue a proclamation, under his hand and seal of office, as to the corporations whose names are included in each list, declaring such corporations dissolved and their charters for-

feited by reason of their failure to report as required by this section. The original proclamations shall be filed in the office of the secretary of state who shall cause a copy of each proclamation to be published once in a daily newspaper published and circulating in the county wherein the principal offices of the corporations named in such proclamation are located. The secretary of state shall cause a copy of the proclamation covering those corporations as to which the county in which their principal offices are located is unknown to him to be published once in the state paper at Albany.

4. Upon the publication of any such proclamation in the manner aforesaid, the corporate existence of such corporation named therein shall immediately cease and it shall be deemed to be dissolved.

5. The names of all corporations dissolved as aforesaid shall be reserved for a period of three months immediately following the publication of the proclamation, and during such period no corporation shall be formed under a name the same as any name so reserved or so nearly resembling it as to be calculated to deceive, nor shall any foreign corporation, within such period, be authorized to do business in this state under a name the same as any name so reserved or so nearly resembling it as to be calculated to deceive.

6. At any time before the expiration of said period of three months from the date of publication of the proclamation, a corporation whose name is included in the proclamation as published may cause to be filed in the office of the secretary of state a certificate that the corporation desires to continue its corporate existence. Such certificate shall be executed by one of its officers, under its seal, with proof of execution in the form prescribed by section three hundred and nine of the real property law. The filing of such certificate shall have the effect of annulling all of the proceedings theretofore taken for the dissolution of such corporation under the provisions of this section, and it shall have such corporate powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published, and as if such corporation had made the report required by subdivision one of this section. The secretary of state shall collect a fee of twenty-five dollars for filing such certificate unless it shall appear that the name of the corporation was improperly included in the proclamation by the fault or error of the secretary of state, in which case no filing fee shall be collected. The secretary of state shall not accept any such certificate after the expiration of such period of three months.

§ 2. This act shall take effect immediately.

CHAPTER 354

AN ACT to amend the tax law, in relation to the tax upon transfers of shares or certificates of stock, and certain other certificates.¹

Became a law March 29, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
62, art. 12,
title
amended.

Section 1. The title of article twelve of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended to read as follows:

Tax on transfers of stock and other corporate certificates.

§ 270, as
amended
by L. 1913,
ch. 779,
amended.

§ 2. Section two hundred and seventy of such chapter, as last amended by chapter seven hundred and seventy-nine of the laws of nineteen hundred and thirteen,² is hereby amended to read as follows:

§ 270. **Amount of tax.** There is hereby imposed and shall immediately accrue and be collected a tax, as herein provided, on all sales, or agreements to sell, or memoranda of sales and all deliveries or transfers of shares or certificates of stock, or certificates of rights to stock, or certificates of deposit representing certificates taxable under this article, in any domestic or foreign association, company or corporation, or certificates of interest in business conducted by a trustee or trustees, made after the first day of June, nineteen hundred and five, whether made upon or shown by the books of the association, company, corporation or trustee, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of sale or transfer, whether intermediate or final, and whether investing the holder with the beneficial interest in or legal title to said stock, or other certificates taxable hereunder, or merely with the possession or use thereof for any purpose, or to secure the future payment of money, or the future transfer of any such stock, or certificates, on each hundred dollars of face value or fraction thereof, two cents, except in cases where the shares or certificates are issued without designated monetary value, in which cases the tax shall be at the rate of two cents for each and every share. It shall be the duty of the person or persons making or effectuating the sale or transfer to procure, affix and cancel the stamps and pay the tax provided by this article. It is not intended by this act to impose a tax upon an agreement evidencing the deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon such certificates so deposited, nor upon mere loans of stock or certificates, or the

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Section 270 as re-enacted by L. 1910, ch. 38, and previously amended by L. 1911, ch. 352 and L. 1912, ch. 292.

return thereon. The payment of such tax shall be denoted by an adhesive stamp or stamps affixed as follows: In the case of a sale or transfer, where the evidence of the transaction is shown only by the books of the association, company, corporation or trustee, the stamp shall be placed upon such books, and it shall be the duty of the person making or effectuating such sale or transfer to procure and furnish to the association, company, corporation or trustee the requisite stamps, and of such association, company, corporation or trustee to affix and cancel the same. Where the transaction is effected by the delivery or transfer of a certificate, the stamp shall be placed upon the surrendered certificate and canceled; and in cases of an agreement to sell, or where the sale is effected by delivery of the certificate assigned in blank, there shall be made and delivered by the seller to the buyer, a bill or memorandum of such sale to which the stamp provided for by this article shall be affixed and canceled. Every such bill or memorandum of sale or agreement to sell shall show the date of the transaction which it evidences, the name of the seller, the stock, or other certificate, to which it relates, and the number of shares thereof. All such bills or memoranda of sale shall bear a number upon the face thereof and no more than one such bill or memorandum of sale made by the seller on any given day shall bear the same number. The aforesaid identification number of the bill or memorandum of sale shall in all cases be entered and recorded in the book of account required to be kept by section two hundred and seventy-six of this chapter; and no further tax is hereby imposed upon the delivery of the certificate, or upon the actual issue of a new certificate when the original certificate is accompanied by the duly stamped memorandum of sale as herein provided.

§ 3. Section two hundred and seventy-one of such chapter, as last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one^{*} is hereby amended to read as follows:

§ 271, as
amended
by L. 1921,
ch. 443,
amended.

§ 271. **Stamps, how prepared and sold.** Adhesive stamps for the purpose of paying the state tax provided for by this article shall be prepared by the tax commission, in such form, and of such denominations and in such quantities as it may from time to time prescribe, and it shall make provision for the sale of such stamps by its duly authorized agent or agents in such places and at such times as in its judgment may be necessary.

The tax commission may from time to time and as often as it deems advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. In order to effect such a change and to discontinue the use of stamps of a former design the tax commission shall publish or cause to be published once in each week for each of three months immediately preceding the time for taking effect of such change, in one or more daily newspapers published in each of the first and second class cities of the state, a notice to the effect that after a certain day, which shall be at least three months after the

^{*} Previously amended by L. 1913, ch. 811.

first publication of said notice, none other than the new issue or design of stamps shall be accepted or made use of in payment of the tax provided for by this article. After such date it shall be unlawful for any person to make use of any other than the new issue or design of stamps in payment of such tax. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Any person lawfully in possession of unused stamps of an old or superseded issue or design may, within ninety days from the time when such change becomes effective as aforesaid, surrender the same to the tax commission together with a sworn statement setting forth the name and address of the owner and party surrendering said stamps, how, when and from whom the same were acquired and such other pertinent information as the tax commission may require; whereupon the tax commission shall redeem such unused and surrendered stamps by exchanging therefor stamps of a like denomination of the new issue or design. Failure or refusal of the tax commission to redeem the same by such an exchange may be enforced by mandamus.

§ 271a, as
added by
L. 1911, ch.
12, and
amended
by L. 1921,
ch. 443,
amended.

§ 4. Section two hundred and seventy-one-a of such chapter, as added by chapter twelve of the laws of nineteen hundred and eleven, and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,⁴ is hereby amended to read as follows:

§ 271-a. **Sale of stamps.** No person, firm, company, association or corporation other than a corporation organized under the banking law of this state or under the national bank act of the United States, or a duly authorized agent of the tax commission, shall sell or expose for sale, traffic in, trade, barter or exchange any stamp issued pursuant to this article, without first obtaining from the tax commission its written consent to sell, traffic in, trade, barter or exchange such stamps, except that in connection with a sale of or agreement to sell stock a broker or agent of the principal making such sale or agreement to sell may supply and affix the stamp or stamps required by this article. No persons shall sell or expose for sale any stamp so purchased or acquired for a sum less than the face value thereof without the written consent of the tax commission. Any person lawfully in possession of unused stamps of the issue then in effect may request the tax commission for its consent to redeem the same. He shall present to the tax commission, if so required, a sworn statement setting forth the name and address of the owner and the party desiring to redeem said stamps, how, when and from whom the same were acquired and such other pertinent and relevant information as the tax commission may require. Thereupon the tax commission may authorize the redemption of such stamps through its fiscal agent appointed for the sale of stock transfer stamps. Upon the failure or refusal of the tax commission to give such authority the same may be enforced by mandamus. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction

⁴ Previously amended by L. 1913, ch. 811; L. 1916, ch. 552

thereof shall be punishable by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

§ 5. Section two hundred and seventy-two of such chapter, as last amended by chapter two hundred and ninety-two of the laws of nineteen hundred and twelve,⁵ is hereby amended to read as follows: § 272, as amended by L. 1912, ch. 292, amended.

§ 272. **Penalty for failure to pay tax.** Any person or persons liable to pay the tax by this article imposed, and any one who acts in the matter as agent or broker for such person or persons, who shall make any sale, transfer or delivery of shares or certificates taxable under this article without paying the tax by this article imposed, and any person who shall in pursuance of any sale, transfer or agreement, deliver any certificate or evidence of the sale or transfer of or agreement to sell any such certificate, or bill or memorandum thereof, or who shall transfer or cause the same to be transferred upon the books or records of the association, company, corporation, or business conducted by a trustee or trustees, and any association, company, corporation or business conducted by a trustee or trustees, whose stock or other certificates taxable hereunder is sold or transferred, which shall transfer or cause the same to be transferred upon its books, without having the stamps provided for in this article affixed thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than six months or by both such fine and imprisonment, in the discretion of the court.

§ 6. Section two hundred and seventy-five-a of such chapter, as added by chapter seven hundred and seventy-nine of the laws of nineteen hundred and thirteen, and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,⁶ is hereby amended to read as follows: § 275a, as added by L. 1913, ch. 779, and amended by L. 1921, ch. 449, amended.

§ 275-a. **Registration; penalty for failure.** Every person acting individually or as a trustee, firm, company, association or corporation engaged in whole or in part in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under this article, or conducting or transacting a stock brokerage business, and every corporation, stock association, company or trustee which shall maintain a principal office or place of business within the state or which shall keep or cause to be kept within the state of New York a place for the sale, transfer or delivery of its stock, or other certificates included within this article, shall within ten days after the amendment to this section shall take effect if such a certificate shall not have been theretofore filed with the state comptroller, or within ten days after engaging in such business or after establishing such principal office or place of business, or such place for the sale or transfer of its certificates, as the case may be, file in the office of the tax com-

⁵ Previously amended by L. 1911, ch. 352.

⁶ Previously amended by L. 1914, ch. 206.

mission a certificate setting forth the name under which such business is, or is to be, conducted or transacted, and the true or real full name or names of the person or persons conducting or transacting the same, with the post office address or addresses of said person or persons, unless the party so certifying be a corporation or trustee, in which event it shall set forth its said principal office or place of business and when and where incorporated or organized. Said certificate shall be executed and duly acknowledged by the person or persons so conducting or intending to conduct said business or by the president or secretary of the corporation as the case may be.

In the event of a change in the persons composing such firm, company or association or of the persons acting as such trustees or of the address of any such person, firm, company, association, corporation or trustees, or termination of such business or relationship, a like certificate setting forth the facts with respect to such change or termination shall within ten days thereafter be filed in the office of the tax commission.

Any such person acting individually or as a trustee, firm, company, association or corporation who shall fail to comply with the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not more than six months or by both such fine and imprisonment, in the discretion of the court.

§ 276, as
amended
by L. 1921,
ch. 443,
amended.

§ 7. Section two hundred and seventy-six of such chapter, as last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows:

§ 276. **Power of tax commission.** Every person, firm, company, association, corporation or business conducted by a trustee or trustees, engaged in whole or in part in the making or negotiating of sales, agreements to sell, deliveries or transfers of shares or certificates taxable under this article, or conducting or transacting a brokerage business, shall keep or cause to be kept at some accessible place within the state of New York, a just and true book of account, in such form as may be prescribed by the tax commission, wherein shall be plainly and legibly recorded in separate columns, the date of making every sale, agreement to sell, delivery or transfer of such shares or certificates, the name and the number of shares thereof, the face value, the name of the seller or transferrer, the name of the purchaser or transferee, the face value of the adhesive stamps affixed and the identifying number of the bill or memorandum of sale used as provided for by section two hundred and seventy of this chapter. This book shall also have recorded therein each separate purchase of stock transfer stamps, showing the date, the amount and from whom purchased.

Every association, company or corporation or business conducted

¹ Previously amended by L. 1910, ch. 453; L. 1911, ch. 352; L. 1912, ch. 292; L. 1913, ch. 779.

by a trustee or trustees shall keep or cause to be kept at some accessible place within the state of New York a stock certificate book and a just and true book of account, transfer ledger or register, in such form as may be prescribed by the tax commission, wherein shall be plainly and legibly recorded in separate columns the date of making every transfer of stock, or other certificates included within this article, the name and the number of shares thereof, the serial number of each surrendered certificate, the name of the parties surrendering such certificate, the serial number of the certificate issued in exchange therefor, the number of shares covered by said certificate, the name of the party to whom said certificate was issued and the face value of the stamps attached in payment of the tax on the transfer of the certificate. Evidence of the payment of the tax provided for by section two hundred and seventy of this chapter shall be provided in one of the following manners and not otherwise, to wit:

(a) By attaching to the certificate surrendered for transfer, the stamps required for such transfer, or

(b) If the stamps are not attached to the certificate, but are attached to the bill or memorandum of sale affecting or evidencing the transfer of such certificate, by attaching to said certificate the said bill or memorandum of sale with stamps attached, or

(c) If the stamps covering the transfer are attached to a bill or memorandum effecting a transfer of one or more certificates or to one or more certificates included in said transfer, a notation must be made upon such certificates, bill or memorandum, as the case may be, clearly specifying and identifying the certificate or certificates to the sale or transfer of which the said stamps apply, or

(d) If the bill or memorandum bearing such stamps is not attached to the surrendered certificate or certificates to which it applies, a notation must be made upon such bill or memorandum stating the serial number or numbers of the certificates to which said bill or memorandum applies, as provided by section two hundred and seventy of this chapter. It shall also retain and keep all surrendered or canceled shares or certificates and all memoranda relating to the sale or transfer of any thereof. All such books of account, transfer ledgers, registers and certificate books, shall be retained and kept as aforesaid for a period of at least two years subsequent to the date of the last entry made therein as herein required; and all such surrendered or canceled shares or certificates and memoranda relating to the sale or transfer of certificates taxable under this article, shall be retained and kept for a period of at least two years from the date of the delivery thereof. For the purpose of ascertaining whether the tax imposed by this article has been paid, all such books of account, transfer ledgers, registers, certificate books, surrendered or canceled shares or certificates and memoranda relating to the sale or transfer thereof, shall at all times between the hours of ten o'clock in the forenoon and three o'clock in the afternoon, except Saturdays, Sundays and legal holidays, be open to examination by the tax commission or its duly authorized representative.

The tax commission may enforce its right to examine such books of account and bills or memoranda of sale or transfer; and such transfer ledger, register and certificate books and surrendered or canceled shares or certificates by mandamus. If the tax commission ascertains that the tax provided for in this article has not been paid, the attorney general at the instance of the commission shall bring an action in its name as such tax commission, in any court of competent jurisdiction for the recovery of such tax and for any penalty incurred by any person under the provisions of this article.

Every person, firm, company, association or corporation or business conducted by a trustee or trustees that shall fail to keep such book of account or bills or memoranda of sale or transfer, or transfer ledger, register or certificate book or surrendered or canceled shares or certificates as herein required, or who alters, cancels, obliterates or destroys any part of said records, or makes any false entry therein, or who shall refuse to permit the tax commission or any of its authorized representatives freely to examine any of said books, records or papers at any of the times herein provided, or who shall in any other respect violate any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall for each and every such offense pay a fine of not less than five hundred dollars nor more than five thousand dollars, or be imprisoned not less than three months nor more than two years, or both in the discretion of the court.

§ 277, as amended by L. 1921, ch. 443, amended.

§ 8. Section two hundred and seventy-seven of such chapter, as last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,^{*} is hereby amended to read as follows:

§ 277. **Civil penalties; how recovered.** Any person, firm, company, association or corporation, or business conducted by a trustee or trustees that shall violate any of the provisions of section two hundred and seventy or section two hundred and seventy-two of this chapter shall in addition to the penalties herein provided forfeit to the people of the state a civil penalty of ten dollars for each and every share of stock or of other interest taxable under this chapter so sold or transferred, or transferred or entered upon the books of the corporation or trustees, as the case may be, without the payment of the tax by this article imposed thereon. Any person who shall violate any of the other provisions of this article shall in addition to the penalties hereinbefore provided forfeit to the people of the state a civil penalty of five hundred dollars for each and every such violation.

The attorney-general at the instance of the tax commission shall bring an action in its name as such tax commission in any court of competent jurisdiction for the recovery of any civil penalty; and all moneys collected by him shall be paid into the state treasury. In an action against a corporation or trustees, or its or their transfer agent to recover a penalty because of the transfer

^{*} Previously amended by L. 1912, ch. 292.

of a certificate, upon the books or records of the corporation or trustees without requiring the payment of the tax by this article imposed, the failure of the corporation or trustees or its or their transfer agent, on the demand of the tax commission or its duly authorized representative, to produce the surrendered certificate or memoranda of sale with the required stamps attached, shall constitute prima facie proof of the nonpayment of the tax imposed by section two hundred and seventy of this chapter.

§ 9. Section two hundred and seventy-eight of such chapter, as § 278 amended. added by chapter two hundred and forty-one of the laws of nineteen hundred and five,* is hereby amended to read as follows:

§ 278. **Effect of failure to pay tax.** No transfer of certificates taxable under this article made after June first, nineteen hundred and five, on which a tax is imposed by this article, and which tax is not paid at the time of such transfer shall be made the basis of any action or legal proceedings, nor shall proof thereof be offered or received in evidence in any court in this state.

§ 10. Section two hundred and eighty of such chapter, as added by chapter one hundred and eighty-six of the laws of nineteen hundred and ten and amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: § 250, as added by L. 1910, ch. 186, and amended by L. 1921, ch. 442, amended.

§ 280. **Refund of tax erroneously paid.** If any stamp or stamps shall have been erroneously affixed to any book, certificate, or bill or memorandum of sale, the tax commission may, upon presentation of a claim for the amount of such stamp or stamps and upon the production of evidence satisfactory to it that such stamp or stamps was or were so erroneously affixed so as to cause loss to the person or persons making such claim, pay such amount or such part thereof as it may allow, to such claimant out of any moneys appropriated for that purpose. Such claim shall be presented to the tax commission in writing, duly verified, and shall state the full name and address of the claimant, the date of such erroneous affixing, the face value of such stamp or stamps and shall describe the instrument to which the stamp or stamps were affixed and contain such evidence as may be available upon which the demand for such refund is based. Such claims shall be presented within ninety days after such erroneous affixing unless such affixing shall have taken place prior to the date on which this act shall take effect, in which case such shall be presented within ninety days after the date on which this act shall take effect. If the tax commission rejects a claim or any part thereof, the claimant may file a claim for the recovery of such sum as the tax commission shall have refused to allow, with the court of claims, which shall constitute a private claim against the state and shall be subject to all the provisions of law governing such claims, except that all claims so presented shall be filed with the court of claims within ninety days from the date on which such claim shall

* L. 1905, ch. 241 added § 323 to general tax law (L. 1896, ch. 908). This section was incorporated in consolidated tax law (L. 1909, ch. 62) as § 278 thereof.

be rejected by the tax commission. For the purposes of this section, the tax commission's decision shall be deemed to have been made at the time of the depositing of a copy of such decision in the postoffice inclosed in a duly post-paid wrapper and directed to the person making such claim at the address contained in the verified claim presented to the tax commission as hereinbefore provided.

§ 281
added.

§ 11. Article twelve of such chapter is hereby amended by adding at the end thereof a new section to follow section two hundred and eighty, to be known as section two hundred and eighty-one, to read as follows:

§ 281. [Statute of limitations not applicable.]¹⁰ The provisions of the code of civil procedure¹¹ relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, determine or enforce the collection of any tax or penalty prescribed by this article.

In effect
May 1,
1922.

§ 12. This act shall take effect May first, nineteen hundred and twenty-two.

CHAPTER 355

AN ACT to amend the civil practice act, in relation to certiorari proceedings.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1283
amended.

Section 1. Section twelve hundred and eighty-three of the civil practice act is hereby amended to read as follows:

§ 1283. **Writ of certiorari abolished.** The writ of certiorari is hereby abolished. The relief heretofore obtained by such writ under the provisions of the code of civil procedure shall hereafter be obtained by an order as provided in this article. Wherever in any statute reference is made to a writ of certiorari, such reference, when heretofore referring to a writ of certiorari as regulated by article seven of title two of chapter sixteen of the code of civil procedure, shall be deemed to refer to a certiorari order as provided in this article, and the relief given by any such statute by means of a writ shall be obtained by an order as provided in this article. ¹ Nothing in this section shall be construed as abolishing the writ of certiorari under the tax law, or under any other general or special statute, to review assessments for purposes of taxation which are placed upon the local tax rolls.

§ 2. This act shall take effect immediately.

¹⁰ Section heading inserted by editor.

¹¹ See civil practice act, art. 2.

¹ Following sentence new.

CHAPTER 356

AN ACT to authorize the board of education of the city of Niagara Falls to use the proceeds of bonds of the city of Niagara Falls authorized by a tax election held in said city on July eighth, nineteen hundred and twenty, together with the proceeds of fire insurance policies covering the high school in said city of Niagara Falls, for any school purpose.

Accepted by the City.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of education of the city of Niagara Falls is hereby authorized to use the proceeds of the sale of any or all of the bonds of said city of Niagara Falls which were authorized to be issued by a tax election held in said city on July eighth, nineteen hundred and twenty, together with the proceeds of any fire insurance policies covering the high school in said city of Niagara Falls, for any school purpose.

§ 2. This act shall take effect immediately.

CHAPTER 357

AN ACT to amend the banking law, in relation to the borrowing of money by savings and loan associations.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and eighty-eight of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," as amended by chapter one hundred and thirty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 388. **Power to borrow; restrictions thereon.** Any savings and loan association, except as hereinafter provided,¹ may borrow money for a term not to exceed one year, if:

1. It has been authorized so to do by the vote of a majority of its board of directors, taken by ayes and nays and recorded in its minutes.

¹ Words "except as hereinafter provided" new.

L. 1914, ch. 369, § 388, as amended by L. 1916, ch. 139, amended.

2. The aggregate of the money borrowed by it and the prior or underlying mortgages, liens or incumbrances upon the real estate upon which it holds mortgages or to which it has taken title, does not exceed twenty per centum of its accumulated capital, or two thousand dollars, if its accumulated capital does not exceed ten thousand dollars. This restriction shall not apply to money obtained from the Land Bank of the State of New York through the issue of bonds on its account and secured by the assignment of bonds and mortgages or other securities by such association. ^a Whenever any such association shall have pledged and assigned to the Land Bank of the State of New York, in accordance with the provisions of section four hundred and twenty-six of this chapter, bonds and mortgages having a present value, after all offsets and credits that would be allowed in case of their payment, of fifty per centum or more of the aggregate present value, ascertained in like manner, of all the bonds and mortgages owned by such association, the power of such association to borrow money shall thereafter cease until the present value of the bonds and mortgages so pledged and assigned, as so ascertained, shall be less than fifty per centum of the aggregate present value of all its bonds and mortgages as so ascertained; and whenever the present value of the bonds and mortgages so pledged and assigned, as so ascertained, shall be less than fifty per centum of the aggregate present value of all its bonds and mortgages, as so ascertained, but shall equal or exceed twenty-five per centum of such aggregate present value of all its bonds and mortgages, such association shall not thereafter have power to borrow any sum of money, if, as the result of such borrowing, the aggregate of the money borrowed by it and the prior or underlying mortgages, liens or incumbrances upon the real estate upon which it holds mortgages or to which it has taken title, exclusive of money obtained from such land bank, will exceed ten per centum of its accumulated capital. Any such association, however, may accept from its members advance payments of dues upon its installment shares and advance payments of interest and premium upon its loans; but such payments shall not be accepted in advance for a longer period than one year, nor shall the interest paid upon such advance payments exceed the rate of six per centum per annum.

§ 2. This act shall take effect immediately.

^a Following sentence new.

CHAPTER 358

AN ACT to incorporate the Bear Mountain Hudson River Bridge Company, and to authorize the construction of a bridge across the Hudson river near the village of Peekskill, together with approaches thereto and to define the rights of the state respecting such bridge.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. James W. Alker, Great Neck, Long Island; E. Roland Harriman, New York city, New York; William E. Knox, New Rochelle, New York; George W. Perkins, junior, New York city, New York; Cornelius A. Pugsley, Peekskill, New York; Carlton M. Smith, Buffalo, New York; Howard H. Sherwin, Yonkers, New York; Frederick Tench, White Plains, New York; Harry B. Vincent, White Plains, New York; George O. Wagner, New York city, New York; Daniel De Wolf Wever, New York city, New York, and their associates and successors, are hereby constituted a body corporate by the name and style of "Bear Mountain Hudson River Bridge Company," for the object and purpose of constructing, maintaining and operating a bridge authorized by this act to be constructed. Except as otherwise provided in this act, such company shall have the power and be subject to the restrictions and liabilities prescribed by the general corporation law and the stock corporation law, as far as such laws are or may be applicable thereto. The corporate existence of such company shall be for thirty-five years from the time this act takes effect. It may issue twelve thousand five hundred shares of capital stock, all or any of which may be without nominal or par value, and may borrow money upon its bonds or obligations secured by any or all its property. The said corporation is hereby required to make provision for a sinking fund to retire the bonds or obligations to be issued by it as hereby provided, as they mature; the plan for the establishment of said fund to be approved by the public service commission of the state of New York and the fund to be deposited in such bank or banks, trust company or trust companies within the state of New York, and under such rules, regulations and conditions as the said commission may require. The persons named in this section shall constitute the first board of directors of such corporation, but the number of directors may be increased or diminished, within the limits prescribed by law. Within ninety days after this act takes effect, such persons shall meet, fill vacancies, if any, in the board of directors, fix and determine the number of shares of the capital stock, and make, sign and acknowledge certificates, in duplicate, which shall refer to this act and which shall be in the general form of a certificate of incorporation under section two of the business corporations law. One of such duplicates shall be immediately filed in the office of the secre-

Corporators.

Corporate name; object; powers.

Corporate existence.

Capital stock; bonds, etc.

Directors.

Organization.

tary of state and the other in the office of the county clerk of Westchester county.

Author-
ized to
construct
bridge; lo-
cation,
conditions,
restrictions.

§ 2. Subject to the provisions of this act, such corporation is hereby authorized to construct, in accordance with plans and specifications to be approved by the state engineer and surveyor and the commissioners of the Palisades Interstate Park, across the Hudson river about three and one-half miles north of the village of Peekskill, from a point adjacent to the Anthony's Nose tunnel of the New York Central railroad to the foot of Bear mountain just south of the mouth of Popolopen creek, a suspension bridge, approximately sixteen hundred and fifty feet from tower to tower, with a clearance of one hundred and thirty-five feet above high water, and having thereon a roadway at least twenty-two feet in width and sidewalks at least four feet in width. The work of construction of such bridge shall begin within one year, and shall be completed within three years, after all necessary consents of federal authorities shall have been obtained; provided, however, that if such consents be not obtained and construction begun within thirty months from the time this act takes effect, all rights and privileges granted hereunder shall cease and determine. The piers and anchorages of such bridge shall be of concrete, and the towers, stiffenings, trusses, floor system and anchor bars shall be of structural steel. The cables and suspenders shall be of wire rope. The sidewalks and pavements on such bridge also shall be of concrete. The sidewalks shall have a loading capacity of fifty pounds per square foot. The roadway shall have a loading capacity of seventy pounds per square foot or of a moving load of thirty tons. The piers and anchorages, and the ends, on each side of such river, may be upon state property.

Approaches.

Such company, during the time when it has control of such bridge, may use for approaches thereto a parcel of state land three rods in width on the east side of the river extending from the easterly end of such bridge along the southerly side of Anthony's Nose to make connection with the Albany post road north of Annsville creek, and a parcel of state lands three rods in width, on the west side of the river, extending from the west end of such bridge for a distance of about three hundred yards to, and connecting with, the state highway through the Palisades Interstate Park. Such company shall construct upon and along such approaches a roadway conforming to the standard of construction adopted by the state department of highways for the construction of state routes and shall maintain such roads in good repair at its own cost at all times during its control of such bridge. Such company may acquire by condemnation under the general condemnation law any real property or rights therein except lands of the state of New York necessary for the construction of such bridge, approaches, toll-gates and buildings appurtenant to the use and maintenance of the bridge, except that it may take possession of such property and rights therein upon the appointment and qualification of the commissioners of appraisal. Such company shall file with the state engineer and surveyor statements of cost as the work pro-

Eminent
domain.

Statements
of

esses.

§ 3. The state hereby reserves to itself the right, and such company by accepting the benefits of this act consents that the state shall have the right to acquire such bridge, all improvements in connection with the approaches, and all buildings, gates and appurtenances of such bridge, at the following times and upon the following terms: After the completion of the bridge, at the end of five years, for the sum of four million five hundred thousand dollars, at the end of ten years, for the sum of four million dollars, at the end of fifteen years, for the sum of three million five hundred thousand dollars, at the end of twenty years, for the sum of three million dollars, and at the end of twenty-five years, for the sum of two million dollars. If the state shall not have purchased such property at the expiration of twenty-five years after the completion of such bridge, such bridge, improvements on approaches, buildings, toll-gates and appurtenances shall be and become the property of the state at the expiration of thirty years from the completion of such bridge, without cost or expense to the state, and the right, title and interest of such company therein shall then cease and determine. The state may exercise any such option to purchase within one year after the expiration of any such period of five years or multiple thereof above specified. Nothing herein contained, however, shall impair the right of the state to take such property at any time, for a public use, upon payment of just compensation, in the exercise of its right of eminent domain. Such just compensation shall be fixed at the cost of such bridge, all improvements in connection with the approaches, and all buildings, gates and appurtenances of such bridge, together with ten per centum of such cost, less such sum for amortization as shall have been earned, and fixed by the public service commission.

§ 4. When such bridge shall have been completed it shall be kept open to the public at all times upon payment of tolls at or below the maximum rates hereinafter provided. Such company may erect toll-gates upon the approaches thereto and fix and collect rates of toll for persons, vehicles and animals, at not exceeding the following amounts: Foot passengers: adults, fifteen cents; children, five to twelve years of age, ten cents. Motor driven vehicles (including driver): motor cycle, twenty-five cents; motor cycle with side car, thirty-five cents; automobiles, under one hundred inch wheelbase, eighty cents; automobiles, over one hundred inch wheel base, one dollar; automobile trucks, under one hundred inch wheel base, eighty cents; automobile trucks, over one hundred inch wheel base, load two tons or less, one dollar and fifty cents; automobile trucks, over one hundred inch wheelbase, load two to five tons, one dollar and seventy-five cents; automobile trucks, over one hundred inch wheel base, load over five tons, fifty cents for each additional ton, no truck over ten tons; moving vans, light, two dollars; moving vans, loaded, three dollars. Horse drawn vehicles (including driver): one horse wagon, not over sixteen feet long, fifty cents; one horse wagon, sixteen to twenty feet long, sixty cents; two horse wagon, not over sixteen feet long,

State au-
thorized to
acquire
bridge;
terms.

To be open
to public;
maximum
toll rates.

Jurisdiction of rates by public service commission.

load two tons or less, sixty cents; two horse wagon, sixteen to twenty feet long, or load over two tons, seventy-five cents. Live stock on deck: horses, oxen, cows and yearlings, twenty cents; calves, hogs, sheep and lambs, ten cents. Passengers in vehicles: adults, fifteen cents; children, five to twelve years of age, ten cents. Miscellaneous: bicycle and rider, twenty cents; saddle horse and rider, thirty cents; trailer on automobile or wagon, one dollar each; additional horses attached to vehicles, each, twenty cents; each additional foot over twenty feet on length of vehicles, ten cents. The above provision as to tolls and rates shall be subject to change by the public service commission of the state of New York, and the said commission shall have the same jurisdiction and rights in regard to tolls and rates above mentioned and the modification and adjustment thereof as are now given to the said commission for the adjustment and regulation of tariffs and rates of common carriers by the public service commissions law as amended, and the rights of said corporation in regard to tolls and rates shall be the same as the rights of a common carrier with regard to tariff and rates under the public service commissions law, as amended.

Application of certain laws.

By-laws.

§ 5. The provisions of the penal law, the general highway traffic law and the motor vehicle law of the state of New York shall apply to the roadway and sidewalks of said bridge, together with the entrances and approaches thereto, with the same force and effect as though the same and all parts thereof were a public highway within the state of New York. Such corporation also, as soon as practicable after this act takes effect, shall adopt bylaws, which shall be subject to amendment and repeal as provided by general laws. Such by-laws shall fix the time and place for holding the annual meeting and election of directors.

§ 6. This act shall take effect immediately.

CHAPTER 359

AN ACT to change the name of The Central Presbyterian Society of Southeast to Brewster Presbyterian Church.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The name of The Central Presbyterian Society of Southeast, a religious corporation located at Brewster, Putnam county, New York, is hereby changed to Brewster Presbyterian Church, but such change of name shall not affect the title to any property owned or possessed by such corporation, or any action or proceeding now pending by or against such corporation, or any obligation incurred by such corporation; and any gift or bequest heretofore or hereafter made or given in any will, devise or other grant to or in the name of the Central Presbyterian Society of

Southeast shall inure to the benefit and belong to the Brewster Presbyterian Church the same as though such name had not been changed.

§ 2. This act shall take effect immediately.

CHAPTER 360

AN ACT to amend the farms and markets law, in relation to the delivery of deficient quantities of commodities sold, and the branding of containers of commodities.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and eighty-eight and one hundred and ninety-four, of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," are hereby amended to read, respectively, as follows:

L. 1922, ch.
48, §§ 188,
194
amended.

§ 188. Using false weights and measures; delivery of deficient quantities.¹ No person, with knowledge that the same is false, shall use a false weight, measure, or other apparatus, for determining the quantity of any commodity or article of merchandise, or knowingly deliver less of any such commodity or article of merchandise² than the quantity he represents.

The possession or use by any person of any false weight, measure, or other apparatus, for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure, or other apparatus. ³The delivery by any person of a lesser quantity of any commodity or article of merchandise than the quantity he represents is presumptive evidence of knowledge by such person that the quantity delivered was less than the quantity he represented.

§ 194. Net contents of containers to be indicated on the outside thereof. When commodities are sold or offered for sale in containers whose sizes are not otherwise provided by statute, the net quantity of the contents of each container,⁴ shall be plainly and conspicuously marked, branded or otherwise indicated on the outside or top thereof or on a label or a tag attached thereto in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two, except the amendment of section one hundred and ninety-four, which shall take effect October first, nineteen hundred and twenty-two.

In effect
April 1,
and Oct. 1,
1922.

¹ Section heading formerly read: "Under false weights and measures."

² Words "of any such commodity or article of merchandise," new.

³ Following sentence new.

⁴ Words "or a statement that the specified weight includes the container, the weight of which shall be marked," omitted.

CHAPTER 361

AN ACT to amend the farms and markets law, in relation to the licensing of dogs and protection of domestic animals therefrom.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922, ch.
48, §§ 118,
120
amended.

Section 1. Sections one hundred and eighteen and one hundred and twenty of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," are hereby amended to read as follows:

§ 118.¹ **Town and city clerks to report failure to pay; penalties; fees of officers.** On the tenth day of August in each year, each town or city clerk shall make to the commissioner a report containing the names of all owners of dogs in his town or city who have failed or refused to obtain licenses and to pay the license fee as provided in this article. The clerk making such report shall be entitled to receive the sum of five cents for each name of a dog owner thereon, which sum shall be paid by the county treasurer from moneys collected under this article, after the bill therefor has been certified to him by the commissioner.

A town clerk so reporting shall forthwith bring an action in a justice's court in his town, and a city clerk so reporting shall forthwith bring an action in a court of competent jurisdiction in his city, in the name of the people of the state of New York, against each of the dog owners so reported by him who have so failed or refused to obtain such license, for the recovery of the penalty of ten dollars imposed by section one hundred and ten of this chapter. No fees or costs shall be exacted in advance from the plaintiff.

There shall be endorsed upon the copy of the summons served upon the defendant a statement in substantially the following form: This action is brought to recover a penalty of ten dollars according to the provisions of section one hundred and ten of chapter forty-eight of the laws of nineteen hundred and twenty-two, for failure or refusal to obtain a license for a dog or dogs owned or harbored by you during the current dog license year. If you obtain such license from your town or city clerk before the return day named in the summons herein, and pay the fees and mileage provided by the justice court act, for the issuing and service of such summons, this action will thereupon be discontinued; otherwise judgment will be taken against you by default for such penalty, together with costs of the action, unless you duly appear and answer the complaint of the plaintiff herein.

If the defendant shall before the return day procure such license and pay such fees and mileage, the action shall be discontinued; otherwise it shall be prosecuted to judgment. Except as other-

¹ Section 118 materially amended.

wise provided in this section, the proceedings in such action shall be governed by the provisions of the justice court act.

All moneys collected as judgments and costs in such actions shall be remitted to the county treasurer on or before the tenth day of the calendar month following such collections, and the justice or court shall at the time of such remittance transmit to the commissioner a summary statement in the form prescribed by him, showing the final action taken in such penalty actions.

All persons entitled to fees for services or mileage in such actions shall present a verified claim therefor, in the form and manner prescribed by the commissioner, to the board of supervisors or other county auditing officers of the county where such actions were brought, and upon allowance thereof, the county treasurer shall pay such allowed claims from the moneys collected under this article.

§ 120. **Amount of damages to be paid by the county; assignment of claim to county.** The owner of horses, cattle, sheep or swine attacked, chased, worried, injured or killed by a dog or dogs shall within ten days after discovery thereof and before such animal shall have been disposed of or buried give notice of claim to any assessor of the city or town where such animals were so attacked, chased, worried, injured or killed, that he will make a claim therefor and request that the damages be ascertained. Such notice of claim when filed shall set forth the facts, as claimed, including a description of such animals, the time and place where the claimant believed they were attacked, chased, worried, or injured or killed, and such other circumstances in connection therewith as may be within his knowledge. The assessor receiving such notice of claim shall immediately give notice thereof to the other assessors of such claim so made. The assessors, or a majority of them, shall, within three days, at a time and place to be designated by them, inquire into the matter, and shall examine the animal or animals alleged to have been injured or killed and, if necessary, examine witnesses in relation thereto. If after such inquiry they shall determine that such animals were so attacked, chased, worried, injured or killed by a dog or dogs, they shall make a report of such fact, the number and kind of such animals, and the amount of damages, if any, caused thereby. Such report shall also specify the amounts of their fees which shall not exceed three dollars each for all services and five cents for each mile necessarily traveled in connection with one claim. The difference between the value of the animals before and such value after the occurrence of the acts on which the claim is based, shall be the measure of damages. Such report shall be filed immediately in the office of the county treasurer. Upon receipt of such assessors' report the county treasurer shall transmit a copy thereof to the claimant by mail. Within twenty days after the date of the mailing of such copy of such report the claimant or the county treasurer may file a petition with the clerk of the board of supervisors for a review by the board of supervisors of the determination of the assessors. The board of supervisors

shall cause an investigation to be made of the facts upon which such determination was based. It may appoint a committee to conduct such investigation. The board of supervisors, or such committee if appointed, shall cause reasonable notice of the time and place at which the hearing on such investigation will be held to be given to the claimant and the county treasurer in such manner as it may direct. The said board of supervisors may approve, reject or modify the determination of the assessors. The board of supervisors shall render a decision on such review and cause a copy of such decision to be filed with the county treasurer and a copy thereof to be transmitted by mail to the claimant. If at the expiration of the period of twenty days after the mailing by the county treasurer to the claimant of such copy of such report of the assessors no petition for review has been filed in his office, or if a petition for review shall have been so filed, then upon the filing in his office of the decision of the board of supervisors, the county treasurer shall execute a certificate in triplicate containing the name of the owner of such animals and the amount of the damages which have been ascertained as herein provided. One of such certificates shall be filed in the office of the county treasurer, one transmitted to the department of farms and markets and one transmitted immediately by mail to the claimant. If additional or increased damages are claimed on account of a flock of sheep being attacked, chased or worried, accruing subsequent thereto and not apparent at the time of the first appraisal of damages to the flock, a supplemental notice of claim for such damages may be given to one of the assessors who had jurisdiction of the original claim, at any time within six months from the discovery of the original damages. Such supplemental notice of claim shall set forth the facts required to be specified in the original notice and also the facts upon which such additional or increased damages are based. The same proceedings shall be had thereon as in the case of an original claim. The person to whom a certificate allowing any damages shall be issued, or his assignee or legal representative, may present the same for payment and the amount thereof shall be paid to such person or his assignee or legal representatives, by such county treasurer, and the county treasurer shall also pay the assessors their fees as provided herein for passing upon such claim, out of any moneys available therefor, upon a proper receipt being signed by the person or assessor entitled to such payment and upon the presentation of an assignment to the county of the claim for damages against the owner or owners of the dog or dogs causing such damages. The form of such assignment shall be prescribed by the department of farms and markets. If the owner of such animals attacked, chased, worried, injured or killed shall not present to such county treasurer the certificate above mentioned within six months after the execution thereof, he shall be deemed to have waived compensation from the county for the damages incurred, and shall be liable to the assessors for their fees, and the amount thereof shall not be paid by the county; except that such fees shall be paid by the

county if such person fails to pay the same within one year from the time such certificate is filed with such county treasurer.

Any decision of a board of supervisors made under the provisions of this section where the amount of the claim stated in the notice of claim presented to the assessors equalled or exceeded the sum of one hundred dollars may be reviewed by certiorari in the manner provided by article seventy-eight of the civil practice act.

In effect
April 1,
1922.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 362

AN ACT to amend the farms and markets law, in relation to transfer of appropriations.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

L. 1922, ch.
48, § 31
amended.

§ 31. **Transfer of property, records and appropriations.** The property, records, books, papers and documents of the division of agriculture and of the division of foods and markets shall be delivered and belong to the department of farms and markets. All unexpended balances of appropriations made for the division of agriculture, and the division of foods and markets shall be available for and expended by such department in carrying out the objects and purpose of such appropriations. All unexpended balances of appropriations made for the salaries of the commissioner of agriculture and the commissioner of foods and markets shall be available for the payment of the salaries of the assistant commissioners.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 363

AN ACT to amend the farms and markets law, in relation to the taking of samples for analysis.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and mar-

§ 214a
added to L.
1922, ch.
48.

* Remainder of section new.

be rejected by the tax commission. For the purposes of this section, the tax commission's decision shall be deemed to have been made at the time of the depositing of a copy of such decision in the postoffice inclosed in a duly post-paid wrapper and directed to the person making such claim at the address contained in the verified claim presented to the tax commission as hereinbefore provided.

§ 281
added.

§ 11. Article twelve of such chapter is hereby amended by adding at the end thereof a new section to follow section two hundred and eighty, to be known as section two hundred and eighty-one, to read as follows:

§ 281. [Statute of limitations not applicable.]¹⁰ The provisions of the code of civil procedure¹¹ relative to the limitation of time of enforcing a civil remedy shall not apply to any proceeding or action taken to levy, determine or enforce the collection of any tax or penalty prescribed by this article.

In effect
May 1,
1922.

§ 12. This act shall take effect May first, nineteen hundred and twenty-two.

CHAPTER 355

AN ACT to amend the civil practice act, in relation to certiorari proceedings.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1283
amended.

Section 1. Section twelve hundred and eighty-three of the civil practice act is hereby amended to read as follows:

§ 1283. Writ of certiorari abolished. The writ of certiorari is hereby abolished. The relief heretofore obtained by such writ under the provisions of the code of civil procedure shall hereafter be obtained by an order as provided in this article. Wherever in any statute reference is made to a writ of certiorari, such reference, when heretofore referring to a writ of certiorari as regulated by article seven of title two of chapter sixteen of the code of civil procedure, shall be deemed to refer to a certiorari order as provided in this article, and the relief given by any such statute by means of a writ shall be obtained by an order as provided in this article. ¹ Nothing in this section shall be construed as abolishing the writ of certiorari under the tax law, or under any other general or special statute, to review assessments for purposes of taxation which are placed upon the local tax rolls.

§ 2. This act shall take effect immediately.

¹⁰ Section heading inserted by editor.

¹¹ See civil practice act, art. 2.

¹ Following sentence new.

CHAPTER 356

AN ACT to authorize the board of education of the city of Niagara Falls to use the proceeds of bonds of the city of Niagara Falls authorized by a tax election held in said city on July eighth, nineteen hundred and twenty, together with the proceeds of fire insurance policies covering the high school in said city of Niagara Falls, for any school purpose.

Accepted by the City.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of education of the city of Niagara Falls is hereby authorized to use the proceeds of the sale of any or all of the bonds of said city of Niagara Falls which were authorized to be issued by a tax election held in said city on July eighth, nineteen hundred and twenty, together with the proceeds of any fire insurance policies covering the high school in said city of Niagara Falls, for any school purpose.

§ 2. This act shall take effect immediately.

CHAPTER 357

AN ACT to amend the banking law, in relation to the borrowing of money by savings and loan associations.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and eighty-eight of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," as amended by chapter one hundred and thirty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 388. Power to borrow; restrictions thereon. Any savings and loan association, except as hereinafter provided,¹ may borrow money for a term not to exceed one year, if:

1. It has been authorized so to do by the vote of a majority of its board of directors, taken by ayes and nays and recorded in its minutes.

¹ Words "except as hereinafter provided" new.

L. 1914, ch. 369, § 388, as amended by L. 1916, ch. 139, amended.

The term "milk and cream" when used means a mixture of milk and cream which contains at least ten percentum of milk fat.

The term "adulterated milk" when used means:

1. Milk containing more than eighty-eight and one-half per centum of water or fluids.

2. Milk containing less than eleven and one-half per centum of milk solids.

3. Milk containing less than three per centum of fats.

4. Milk drawn from cows within fifteen days before and five days after parturition.

5. Milk drawn from animals fed on distillery waste or any substance in a state of fermentation or putrefaction, except ensilage, or on any unhealthy food.

6. Milk drawn from cows kept in a crowded or unhealthy condition; or milk produced or kept in insanitary surroundings or in any environment or under any condition whatever that is inimical to its healthfulness or wholesomeness.

7. Milk from which any part of the cream has been removed.

8. Milk which has been diluted with water or any other fluid, or to which has been added or into which has been introduced any foreign substance whatever.

All adulterated milk shall be deemed unclean, unhealthful, impure or² unwholesome.

The term "adulterated cream" when used means cream containing less than eighteen per centum of milk fat or cream to which any substance whatsoever has been added.

³ The term "skimmed milk" when used means milk, as hereinbefore defined, from which part or all of the cream has been removed, but which is otherwise unadulterated, except in respect to an excess in the per centum of water or fluids or a deficiency in the per centum of milk fat or milk solids contained therein, provided the same shall contain at least eight and one-half per centum of milk solids.

The term "butter" when used means the product of the dairy, usually known by that term, which is manufactured exclusively from pure, unadulterated milk or cream or both with or without salt or coloring matter.

The term "cheese" when used means the product of the dairy, usually known by that term, which is manufactured exclusively from pure unadulterated milk or cream or both with or without coloring matter, salt, rennet, sage, olives, pimentos, walnuts, peanuts, tomatoes, celery salt, or onions, added thereto as a flavor; provided that when manufactured by adding to the elemental product of the dairy usually known by the term "cheese," and manufactured exclusively from pure, unadulterated milk or cream or both, any pimentos, olives, walnuts, peanuts, celery salt, tomatoes or onions the percentage of all such substances so added

² Word "or" substituted for word "and."

³ Following paragraph new.

shall not exceed twenty-five per centum in bulk of the manufactured product.

The terms "oleomargarine," "butterine," "imitation of butter," "imitation cheese" mean any article or substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure or unadulterated milk or cream, or any article or substance into which any oil, lard or fat not produced from milk or cream enters as a component part, or into which melted butter or butter in any condition or state or any oil thereof has been introduced to take the place of cream.

§ 63. **Manufacture and sale of imitation cheese and sale of skim-cheese.**⁴ No person shall manufacture, deal in, sell, offer or expose for sale or exchange any article or substance, in the semblance of or in imitation of cheese made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal or offal fats or oils, or melted butter or butter in any condition or state or modification of the same, or oleaginous substances of any kind not produced from unadulterated milk or cream, shall be introduced. ⁵The prohibitions in this article against the sale of cheese made from adulterated milk or cream, shall not apply to pure skim-cheese made from milk which is unadulterated except by skimming.

§ 64.⁶ **Regulations in regard to skimmed milk and products other than cheese manufactured therefrom.** 1. The prohibitions contained in this article against the sale of adulterated milk shall not apply to skimmed milk as defined in section forty-six, which is unadulterated, except by skimming, if it is sold for and as skimmed milk.

2. No person shall sell or exchange, or offer or expose for sale, or exchange, any condensed or evaporated skimmed milk, except it be in containers or packages containing ten pounds avoirdupois net weight or more, which containers or packages shall be distinctly labeled, branded or marked in block letters not less than one-half inch in height, with the words "Condensed Skimmed Milk" or "Evaporated Skimmed Milk";

3. No person shall manufacture, sell or exchange, offer or expose for sale or exchange, or have in his possession with the intent to sell or exchange any condensed, evaporated, concentrated, powdered, dried or desiccated milk, cream or skimmed milk to which there has been added, or with which there has been mixed, blended or compounded, any fats or oils, other than milk fat, so that the finished product shall be in imitation or semblance of condensed, evaporated, concentrated, powdered, dried or desiccated milk.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two, except that subdivision two of section sixty-four as hereby amended shall take effect October first, nineteen hundred and twenty-two.

In effect
April 1,
and Oct. 1,
1922.

⁴Section heading formerly read: "Manufacture and sale of imitation cheese prohibited."

⁵Following sentence new.

⁶Section 64 materially amended.

CHAPTER 366

AN ACT to amend the farms and markets law, in relation to the sale of concentrated commercial feeding stuffs.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922, ch.
48, § 128
amended.

Section 1. Section one hundred and twenty-eight of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

§ 128. Term "concentrated commercial feeding stuffs" defined. The term "concentrated commercial feeding stuffs" as used in this article shall apply to no materials other than those known as concentrates, and shall include linseed meals, cottonseed meals, pea meals, bean meals, peanut meals, cocoanut meals, gluten meals, velvet bean meals, soya bean meals, dried yeast grains, dried vinegar grains, corn germ meal, feeding molasses, gluten feeds, cotton seed feeds, maize feeds, velvet bean feeds, peanut feeds, dried distillers' grains, dried brewer's grains, malt sprouts, except as hereinafter provided, hominy feeds, rice meals, corn and oat chops, corn feed meal, corn bran, corn and cob meal, wheat bran, wheat middlings, wheat feed, rye feed, rye middlings, buckwheat middlings and buckwheat feed, ground beef or fish scraps, meat meals, meat and bone meals mixed, dried blood, milk by-products,¹ mixed feeds, compounded feeds, condimental stock and poultry feeds, proprietary or trade-marked stock and poultry feeds, and all other materials of a similar nature; but shall not include the materials defined in this article as roughages, the whole seeds nor pure whole grains ground together nor the unmixed meals, made directly from the entire grains of wheat, rye, barley, oats, corn, buckwheat and broom corn, nor malt sprouts, when sold as such by the maltster at retail, nor ground or cracked bone not mixed with any other substance, nor shall it include poultry feeds consisting of whole or whole and cracked grains mixed together, with or without grit, oyster shells or charcoal, when all the ingredients may be identified by the naked eye.

§ 131, subd.
4 amended.

§ 2. Subdivision four of section one hundred and thirty-one of such chapter is hereby amended to read as follows:

Tag showing composition to be attached.

4. Its composition expressed in the following terms:

- a. The minimum per centum of crude protein.
- b. The minimum per centum of crude fat.
- c. The maximum per centum of crude fibre, provided that the per centum of crude fibre may be omitted if it does not exceed five per centum.

¹ Words "milk by-products" new.

d. If a compounded feed the name of each ingredient contained therein, but if any ingredient classified under concentrated commercial feeding stuffs be present in a smaller amount than five per centum of the whole, the minimum per centum or weight of such ingredient shall be given as part of the statement as herein provided.

e. If artificially colored, the name of the material used for such purpose.

f. In the case of meat products, the maximum per centum of phosphoric acid. If it contains more than ten per centum of phosphoric acid it shall be marked or designated "Meat and bone scrap" or "Meat and bone meal." If digester tankage contains more than ten per centum phosphoric acid, it shall be marked or designated "Digester meat and bone tankage."

g. In the case of molasses, the minimum per centum of sugar.

h. In case of compounded feeds containing roughages the percentage of total roughages when the total fibre content exceeds ten per centum with an allowance of two per centum of fibre content for variation.

i. In the case of mineral or inorganic compounds, mixed or unmixed, such as calcium phosphate, calcium carbonate or any other materials of similar inorganic character, the minimum percentage of each ingredient which is present in amounts greater than five per centum of the whole.

The statement to be placed upon the tag or sacks as herein provided shall be the same statement as that upon the application filed in the office of the commissioner by the applicant when applying for a license as required by section one hundred and thirty-two² of this chapter.

Metal fasteners with sharp points shall not be used to attach a tag to the container ^{Metal fasteners.} if in the container there is a feeding stuff, irrespective of whether it be a concentrate as defined in this article or a feeding stuff exempt from the provisions of this article.

Where the feeding stuff is in white or light colored paper or cloth sacks, or in new sacks, the tag may be omitted, but the statement herein provided for shall be plainly and conspicuously printed upon each sack. If any such concentrated commercial feeding stuffs be sold, offered or exposed for sale in bulk, such printed statement shall accompany every car or lot. Any such feeding stuffs purchased in bulk and thereafter placed in sacks for the purpose of sale shall have tags attached to each sack giving the information as provided herein before being sold, offered or exposed for sale. Whenever any feeding stuffs are sold at retail in bulk or in sacks or other containers belonging to the purchaser, the seller, upon request of the purchaser, shall furnish the said purchaser the information contained in the certified statement provided herein. Whenever any dealer shall mix a concentrated commercial feeding stuff to a customer's order, he shall, upon request, give to the customer at the time of delivery of the feeding ^{Miscellaneous requirements.}

² Formerly read: "section one hundred and sixty-four."

³ Remainder of paragraph new.

stuff a printed or written statement of all of the materials used and the weight of each. That portion of the statement required by this section relating to the quality and ingredients of feeding stuffs shall be deemed a guaranty; provided, however, that a licensee may change any ingredient in a licensed feeding stuff under the license issued by filing with the commissioner a fully written notice or statement of such change, provided that such change does not change the percentage of protein, fat or fibre guaranteed under such license, and that the statement on the sacks or tags shall be changed accordingly.

§ 3. This act shall take effect October first, nineteen hundred and twenty-two.

In effect
Oct. 1,
1922.

CHAPTER 367

AN ACT to amend the farms and markets law, in relation to grading of foods and farm products.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922, ch.
48, § 22,
subd. 25
amended.

Section 1. Subdivision twenty-five of section twenty-two of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

25. Inspect and determine the grade and condition of farm products ¹ both at shipping points and receiving centers, ² and provide for the issuance of certificates as to the grade of such products.

§ 24, subd.
4 amended.

§ 2. Subdivision four of section twenty-four of such chapter is hereby amended to read as follows:

4.³ Establish official grades for foods and farm products and prescribe the use of such grades, and provide for the marking, packing and shipping of foods and farm products so graded.

In effect
April 1,
1922.

§ 3. This act shall take effect April first, nineteen hundred and twenty-two.

CHAPTER 368

AN ACT to amend the farms and markets law, in relation to oleomargarine, butterine, imitation butter and kindred substances.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922, ch.
48, §§ 46,
59, 60, 62
amended.

Section 1. Sections forty-six, fifty-nine, sixty and sixty-two of chapter forty-eight of the laws of nineteen hundred and twenty-

¹ Word "products" substituted for word "produce."

² Remainder of sentence new.

³ Subd. 4 materially amended.

two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," are hereby amended to read, respectively, as follows:

§ 46.¹ **Definitions.** The term "milk" when used in this article means the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and five days after calving or such longer period as may be necessary to render the milk practically colostrum free.

The term "pure cream" or "unadulterated cream," when used singly or together, means cream taken from pure unadulterated milk.

The term "milk and cream" when used means a mixture of milk and cream which contains at least ten per centum of milk fat.

The term "adulterated milk" when used means:

1. Milk containing more than eighty-eight and one-half per centum of water or fluids.

2. Milk containing less than eleven and one-half per centum of milk solids.

3. Milk containing less than three per centum of fats.

4. Milk drawn from cows within fifteen days before and five days after parturition.

5. Milk drawn from animals fed on distillery waste or any substance in a state of fermentation or putrefaction, except ensilage, or on any unhealthy food.

6. Milk drawn from cows kept in a crowded or unhealthy condition; or milk produced or kept in insanitary surroundings or in any environment or under any condition whatever that is inimical to its healthfulness or wholesomeness.

7. Milk from which any part of the cream has been removed.

8. Milk which has been diluted with water or any other fluid, or to which has been added or into which has been introduced any foreign substance whatever.

All adulterated milk shall be deemed unclean, unhealthful, impure or² unwholesome.

The term "adulterated cream" when used means cream containing less than eighteen per centum of milk fat or cream to which any substance whatsoever has been added.

³ The term "skimmed milk" when used means milk, as hereinbefore defined, from which part or all of the cream has been removed, but which is otherwise unadulterated, except in respect to an excess in the per centum of water or fluids or a deficiency in the per centum of milk fat or milk solids contained therein, provided the same shall contain at least eight and one-half per centum of milk solids.

The term "butter" when used means the product of the dairy,

¹ Section 46 was amended by L. 1922, ch. 365, ante. The amendments effected by said ch. 365 are incorporated in § 46 as here amended.

² Word "or" substituted for word "and."

³ Following paragraph new.

usually known by that term, which is manufactured exclusively from pure, unadulterated milk or cream or both with or without salt or coloring matter.

The term "cheese" when used means the product of the dairy, usually known by that term, which is manufactured exclusively from pure unadulterated milk or cream or both with or without coloring matter, salt, rennet, sage, olives, pimentos, walnuts, peanuts, tomatoes, celery salt, or onions, added thereto as a flavor; provided that when manufactured by adding to the elemental product of the dairy usually known by the term "cheese," and manufactured exclusively from pure, unadulterated milk or cream, or both, any pimentos, olives, walnuts, peanuts, celery salt, tomatoes or onions the percentage of all such substances so added shall not exceed twenty-five per centum in bulk of the manufactured product.

The terms "oleomargarine," or "butterine," mean any oleaginous substance manufactured, sold or exposed for sale, as a substitute for, and to take the place of, butter⁴ and not made exclusively of pure or unadulterated milk or cream, or any article or substance into which any oil, lard or fat not produced from milk or cream enters as a component part, or into which melted butter or butter in any condition or state or any oil thereof has been introduced to take the place of cream.

§ 59. **Manufacture and sale of imitation butter prohibited.** No person by himself, his agents or employees, shall produce or manufacture out of or from any animal fats or animal or vegetable oils not produced from unadulterated milk or cream from the same, "oleomargarine" in imitation or semblance of natural butter produced from pure, undulterated milk or cream of the same; or mix, compound with or add to milk, cream or butter any acids or other deleterious substance or any animal fats or animal or vegetable oils not produced from milk or cream, so as to produce any article or substance or any human food in imitation or in semblance of natural butter, nor sell, keep for sale or offer for sale any article, substance or compound, made, manufactured or produced in violation of the provisions of this section, whether such article, substance or compound shall be made or produced in this state or elsewhere. Any person manufacturing, selling, offering or exposing for sale any commodity or substance in imitation or semblance of butter, the product of the dairy, shall be deemed guilty of a violation of this chapter, whether he sells such commodity or substance as butter, oleomargarine or under any other name or designation whatsoever and irrespective of any representations he may make relative to such commodity or substance. Any dealer in any article or product, the manufacture or sale of which is prohibited by this section, who shall keep, store or dis-

⁴ Paragraph to here formerly read: "The terms 'oleomargarine,' 'butterine,' 'imitation of butter,' 'imitation cheese' mean any article or substance in the semblance of butter or cheese not the usual product of the dairy.

⁵ Words "the article known as" omitted.

⁶ Words "or any article or product" omitted.

play such article or product, with other merchandise or stock in his place of business, shall be deemed to have the same in his possession for sale.

§ 60. **Manufacture or mixing of animal fats with milk, cream or butter prohibited.** No person shall manufacture, mix or compound with or add to natural milk, cream or butter any animal fats or animal or vegetable oils, nor make or manufacture any oleaginous substance not produced from milk or cream, with intent to sell the same as butter or cheese made from unadulterated milk or cream or have the same in his possession with such intent; ⁷ nor shall any person soliciting or taking orders for the same or selling or offering any such compound so made or produced for sale represent the same to be butter or cheese, the product of the dairy. No person shall coat, powder or color with annatto or any coloring matter whatever, butterine or oleomargarine or any compound of the same or any product or manufacture made in whole or in part from animal fats or animal or vegetable oils not produced from unadulterated milk or cream by means of which such product, manufacture or compound shall resemble butter or cheese, the product of the dairy; ⁷ nor shall he have any such substance so made in his possession with intent to sell the same nor shall he sell, offer or expose the same for sale; any person who shall keep, store or display any such article or product with other merchandise or stock in his place of business shall be deemed to have the same in his possession for sale. No person by himself, his agents or employees, shall manufacture, sell, offer or expose for sale, butter that is produced by taking original packing stock or other butter or both and melting the same, so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream or other milk product and rechurning the said mixture, or that is produced by any similar process and is commonly known as boiled or process butter, unless he shall plainly brand or mark the package or tub or wrapper in which the same is put up in a conspicuous place with the words "renovated butter" or "process butter." If the same shall be put up, sold, offered or exposed for sale in prints or rolls, then the said prints or rolls shall be labeled plainly with printed letters in a conspicuous place on the wrapper with the words "renovated butter" or "process butter." If the same is packed in tubs or boxes or pails or other kind of a case or package the words "renovated butter" or "process butter" shall be printed on the top and side of the same in letters, at least one inch in length, so as to be plainly seen by the purchaser. If such butter is exposed for sale, uncovered, not in a package or case, a placard containing the label so printed shall be attached to the mass of butter in such manner as to easily be seen and read by the purchaser. Every person selling, offering or exposing for sale at retail, "renovated butter" or "process butter," shall cause each parcel or package of such butter delivered to or for a customer to be wrapped in a light colored paper on which shall be printed in black letters, not less

⁷ Remainder of sentence materially amended.

than three-eighths-inch square and in Gothic type, the words "renovated butter" or "process butter." ⁸ No person shall sell, offer or expose for sale, any butter or other dairy product containing a poisonous, deleterious or harmful preservative. No person, firm, association or corporation shall induce or attempt to induce any person to violate any of the provisions of this chapter. Any person, firm, association or corporation selling, offering or advertising for sale any substance, preparation or matter for use in violation of the provisions of this chapter shall be guilty of a violation of this section.

§ 62.⁹ **Coloring matter, dairy terms, size of package, labeling.** No person, manufacturing with intent to sell, any substance or article to be used as a substitute for butter or cheese and which is not made exclusively from unadulterated milk or cream or both, with or without salt or rennet or both but into which any animal, intestinal or offal fats, or any oils or fats or oleaginous substance of any kind not produced from pure, unadulterated milk or cream, or into which melted butter, or butter in any condition or state or any modification of the same, or lard or tallow shall be introduced, shall add thereto or combine therewith any annatto or compounds of the same, or any other substance or substances whatever, for the purpose or with the effect of imparting thereto a color resembling yellow, or any shade of yellow butter or cheese, nor introduce any such coloring matter or other substance into any of the articles of which the same is composed. No person manufacturing, selling or offering for sale any oleaginous substance not made from pure milk or cream from the same, designed to take the place of butter, and the sale of which is not prohibited by any of the provisions of this article shall make or sell the same under any brand, device or label bearing words indicative of cows or the product of the dairy or the names of breeds of cows or cattle, nor use terms indicative of processes in the dairy in making or preparing butter; no oleaginous substance not made from pure milk or cream from the same, designed to take the place of butter, and the sale of which is not prohibited by any of the provisions of this article shall hereafter be sold, offered or exposed for sale in this state except it be sold in packages containing not more than five pounds, such packages to be wrapped and plainly and conspicuously labeled with the word "Oleomargarine" in Gothic or equally conspicuous letters at least one-quarter of an inch high. No device or brand shall be imprinted upon any brick or portion of the substance itself unless the word "Oleomargarine" is also indented thereon in letters equal in size to those used in expressing any brand or word used by the manufacturer. When no display is made except a device, the said word "Oleomargarine" shall be so indented in letters not less than one-fourth of an inch high, and in all cases the word "Oleomargarine" shall be equally displayed with any brand or word used by the manufacturer, in close proximity thereto, and on the same

⁸ Following sentence materially amended.

⁹ Section 62 materially amended.

surface of such substance. The name and address of the manufacturer shall be plainly printed on the carton or wrapper enclosing the said goods.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 369

AN ACT to amend the farms and markets law, in relation to enforcement of article by village authorities.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and twenty-seven of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

L. 1922, ch.
48, § 127
amended.

§ 127. Article to be enforced by village authorities. Within the limits of any incorporated village in counties adjoining a city of the first class having a population of one million or more, the provisions of this article shall be enforced by proper authorities of such village except in the county of Westchester.¹ Whenever in this article powers or duties are conferred or imposed on a town, a board of supervisors or a town clerk, such powers and duties in respect to and within the limits of such incorporated village, shall be deemed to be conferred and imposed on such village and the officers of such village corresponding therein to a town clerk.

§ 2. This act shall take effect immediately.

CHAPTER 370

AN ACT to amend section fourteen of the state finance law, relating to temporary loans and revenue bonds.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen² of chapter fifty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to state finance, constituting chapter fifty-six of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 58,
§ 14
amended.

§ 14. Temporary loans and revenue bonds. ³From time to

¹ Words "except in the county of Westchester" new.

² As amended by L. 1913, ch. 645; L. 1915, ch. 333.

³ Following sentence materially amended.

time as the legal demands on the treasury render it necessary, the comptroller may make such temporary loans at the least rate of interest obtainable by him as are necessary to discharge such demands, and may issue certificates for the amount borrowed, in anticipation of the receipt of taxes and revenues, direct or indirect, for the purposes and within the amounts of appropriations theretofore made; bonds or other obligations for the moneys so borrowed, shall with the interest thereon, be paid from such taxes and revenues within one year from the date of issue and so much of such taxes and revenues as will be sufficient to pay the amount borrowed, are pledged to that object. The comptroller may issue bonds in anticipation of revenues derived from taxes authorized by law to be collected for the current expenses of the government, not exceeding six millions of dollars in any one year, payable within six months of the date of issue and drawing interest at the least rate obtainable by him. The proceeds of such bonds shall be applied in payment of the current expenses of the government and to no other object. When received into the treasury so much as may be necessary of these revenues in anticipation of which any such bonds are issued shall be applied exclusively to the payment of the principal and interest of such bonds. The comptroller is authorized to issue, whenever he may deem it for the best interests of the state so to do, bills or notes at a rate of interest not exceeding five per centum per annum, hereinafter described as "notes," maturing within a period not to exceed one year, in anticipation of the sale of bonds duly authorized at the time such notes are issued. The proceeds of the sale of such notes shall be used only for the purposes for which may be used the proceeds of the sale of bonds in anticipation of the sale whereof the notes were issued. All of such notes and any renewals thereof shall be payable at a fixed time, from the proceeds of the sale of bonds, and no renewal of any such note shall be issued after the sale of bonds in anticipation of which the original note was issued. In the event that a sale of such bonds shall not have occurred prior to the maturity of the notes so issued in anticipation of such sale the comptroller shall, in order to meet the notes then maturing, issue renewal notes for such purpose. Every such note and renewal note shall be payable from the proceeds of the next succeeding sale of bonds and not otherwise. The total amount of such notes or renewals thereof issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued and if no sale of bonds shall have been held within six months preceding the issue of such notes then the total amount of such notes or renewals thereof, issued and outstanding, shall at no time exceed the total amount of bonds authorized to be issued on the date, which shall be six months after such last preceding sale. The comptroller shall include in his annual report, a detailed statement of all such loans made and bonds issued during the year and of his proceedings in relation thereto.

§ 2. This act shall take effect immediately.

CHAPTER 371

AN ACT to amend the highway law, generally.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended to read as follows: L. 1909, ch. 30,

§ 2. Section twenty-two¹ of such chapter is hereby amended to read as follows: § 23 amended.

§ 22. **Condemnation of bridges.** The commissioner of highways shall cause an inspection to be made of any bridge which is reported to be unsafe for public use and travel by the district or county superintendent, the town superintendent, or five residents of the town² or by the division engineer in the case of a bridge located on a state or county highway. If such bridge is found to be unsafe for public use and travel the commissioner of highways shall condemn such bridge, and notify the district or county superintendent, the town superintendent and the supervisor of the town, of that fact. The district or county superintendent shall either prepare or approve plans, specifications and estimates for the construction or repair of such bridge without delay. The town shall provide for the construction or reconstruction of such bridge, as provided for by section ninety-three of this chapter.

§ 3. Section twenty-four¹ of such chapter is hereby amended to read as follows: § 24 amended.

§ 24. **Rules and regulations for state and county highways.** The commissioner of highways is hereby empowered to make rules and regulations from time to time for the protection of any state or county highway or section thereof. He may prescribe the width of tires to be used on such highways and he may prohibit the use of chains or armored tires by motor vehicles upon such highways, and any disobedience thereof shall be punishable by a fine of not less than ten dollars and not exceeding one hundred dollars, to be prosecuted for by the³ commission of highways and all fines paid to the state treasurer to the credit of the fund available for the maintenance of state and county highways.

§ 4. Such chapter is hereby amended by adding thereto a new section, to be section twenty-four-a: § 24a added.

§ 24-a. **Temporary closing of highways.** The commissioner of highways may temporarily close any portion of a state or county highway to any vehicle with a gross weight of over four tons when in his opinion such highway would be materially injured

¹ As renumbered and amended by L. 1913, ch. 80.

² Remainder of sentence new.

³ Remainder of sentence materially amended.

by the operation of any such vehicle thereon. Such closing shall take effect upon the erection of a suitable notice at each end of the section of highway to be closed, and a notice that such highway is closed shall be published in a newspaper in the county where the highway is situated. The posted highway shall remain closed until the removal of the notices as directed by the commission. A violation of this section shall constitute a misdemeanor punishable by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not exceeding thirty days or by both such fine and imprisonment to be prosecuted for by the commission, and all fines collected as provided herein shall be paid to the state treasurer to the credit of the fund available for the maintenance of state and county highways.

§ 46
amended.

§ 5. Section forty-six⁴ of such chapter is hereby amended to read as follows:

§ 46. **Removal of town superintendent.** A town superintendent may be removed by the commission upon written charges preferred by the town board or the district or county superintendent, for malfeasance or misfeasance in office. Such charges shall be presented in duplicate to the town clerk, one of which shall be filed in his office, and the other shall be served by him personally upon the town superintendent, together with a notice directing him to appear before the commissioner or a deputy duly designated⁵ at a time and place stated therein. Such service shall be made at least five days prior to the time specified in such notice. The commission shall designate the time and place which shall be within the county of the superintendent for hearing such charges within ten days after the filing thereof with the town clerk. The commission shall hear evidence in support and in defense of such charges and after such hearing shall enter an order in the office of the town clerk either sustaining or dismissing such charges. The entry of an order sustaining the charges shall operate as a removal and the town board shall appoint within four days another person to fill the vacancy caused thereby. The person so appointed shall hold office for the unexpired term or until the entry of a final order of a court of competent jurisdiction determining that the original town superintendent was wrongfully and illegally removed and directing his reinstatement. The town clerk shall also notify the commission and the district or county superintendent of the name of the person appointed to fill the vacancy caused by the removal of such town superintendent. An appeal may be taken by the town superintendent, to the county court by the filing of a notice of such appeal in the office of the town clerk within thirty days after the entry of such order. A copy of such notice of appeal shall be served personally or by mail upon the adverse party. Upon such appeal the county court shall consider the charges presented to the commission and may hear evidence in support and

⁴ As amended by L. 1921, ch. 404.

⁵ Words "or a deputy duly designated" new.

in defense thereof. After such hearing the court shall make an order either affirming or reversing the order of the commission. A copy of such order shall be entered in the office of the town clerk. If the order reverse an order dismissing the charges, it shall direct the commission to remove the town superintendent. The town board shall within five days appoint a person to fill the vacancy caused thereby, within the time specified therein; if it reverse an order sustaining such charges, it shall direct the reinstatement of the town superintendent removed, to take effect upon the filing of the copy in said town clerk's office.

§ 6. Subdivision four of section ninety of such chapter is hereby amended to read as follows: § 90, subd. 4 amended.

4. The amount of money necessary to be levied and collected for the removal of obstructions caused by snow and for other miscellaneous purposes, 'including the widening of a state or county highway under a permit as provided by section one hundred and forty-six.

§ 7. Section ninety-six of such chapter is hereby amended by adding thereto a new subdivision, to be subdivision five. Subd. 5 added to § 96.

5. When a permit has been issued for widening a state or county highway as provided by section one hundred and forty-six.

§ 8. Section one hundred and thirty-six of such chapter is hereby amended to read as follows: § 136 amended.

§ 136. **Damages for entry.** The commission may agree with the owner of lands entered upon and occupied as provided in the preceding section for the payment of damages caused by such entry, or if unable to so agree the right to enter and occupy such lands may be acquired and the damages therefor shall be ascertained as provided in the condemnation law. Such damages shall, in the case of a state highway, be paid out of moneys available for the construction or improvement or the repair or maintenance⁶ of such highway, and in the case of a county highway shall be a county charge and paid in the same manner as other county charges.

§ 9. Section one hundred and forty-six⁷ of such chapter is hereby amended to read as follows: § 146 amended.

§ 146. **Railroads and other works and structures in and upon highways.** No street surface or other railroad shall be constructed upon any portion of a state or county highway which has been or may be improved under the provisions of this article, nor shall any person, firm, 'corporation or municipality'⁸ enter upon or construct any works in or upon any such highway, or construct any overhead or underground crossing thereof, or lay or maintain therein drainage, sewer or water pipes underground, except under such conditions and regulations as may be pre-

⁶ Remainder of subd. 4 new.

⁷ Words "or the repair or maintenance" new.

⁸ As amended by L. 1911, ch. 646; L. 1913, ch. 80.

⁹ Word "or" omitted.

¹⁰ Words "or municipality" new.

scribed by the commissioner of highways, notwithstanding any consent or franchise granted by any town, county or district superintendent, or by the municipal authorities of any town. ¹¹Any municipal corporation may enter upon any state or county highway for the purpose of widening the pavement or for any other purpose authorized by this section, but only after securing a permit as provided herein. Any person, firm or corporation violating this section shall be liable to a fine of not less than one hundred dollars nor more than one thousand dollars for each day of such violation, to be recovered by the commissioner of highways and paid to the state treasurer to the credit of the fund for the maintenance and repair of state and county highways, and may also be removed therefrom as a trespasser by the commissioner of highways upon petition to the county court of the county or the supreme court of the state.

§ 150
amended.

§ 10. Section one hundred and fifty¹² of such chapter is hereby amended to read as follows:

§ 150. **Petition to acquire lands.** If the board of supervisors is unable to acquire land by purchase as provided for in sections one hundred and forty-nine and one hundred and forty-nine-a of this chapter,¹³ the board may present to the county court of the county or to the supreme court, at a special term thereof, to be held in the judicial department in which said county is located, a petition for the appointment of three commissioners of appraisal to ascertain and determine the compensation to be paid to the owners of the land to be acquired and to all persons interested therein. Such petition shall describe the land to be acquired with a reference to the map upon which the same is shown which shall be annexed to such petition. A copy of such petition and map shall be filed in the office of the county clerk. Such petition shall be signed and verified in the name of the board of supervisors, by the chairman or a member thereof designated for that purpose by resolution. Notice of presentation of such petition to such court shall be given by the petitioner by publishing such notice in two newspapers published in such county, once in each week for two weeks successively preceding the day of such presentation, and also at least eight days preceding the day of such presentation by serving a copy of such notice, personally or by mail, on the occupant or owner of the land to be acquired, and by posting a copy of said notice in not less than three public places in each town in which property to be acquired is located.

§ 163
amended.

§ 11. Section one hundred and sixty-three¹⁴ of such chapter is hereby amended to read as follows:

§ 163. **[Approval of plans of roads designated for federal aid].**¹⁵ After the submission to and approval by the secretary

¹¹ Following sentence new.

¹² As amended by L. 1911, ch. 503; L. 1917, ch. 140. Section 150 was amended by L. 1922, ch. 23, ante. The amendment made by said ch. 23 is identical with that here effected.

¹³ Words "sections one hundred and forty-nine and one hundred and forty-nine-a of this chapter," substituted for words "the last section."

¹⁴ As added by L. 1917, ch. 462.

¹⁵ Section heading inserted by editor.

of the United States department of agriculture, of such plans, specifications and estimates of cost, as required by the provisions of said act of congress, the same shall be approved by the commissioner of highways by executive order; which order shall give a consecutive number to the highway or portion thereof covered by said plans. A certified copy of such order shall be filed with said secretary of agriculture and with the state comptroller. Roads shall be taken up for construction or improvement in the order of final approval unless the commissioner of highways deems otherwise advisable, in which event an executive order shall be filed in the office of the highway department giving the reasons for deviating from such order, and a certified copy thereof filed with said secretary and with the state comptroller. ¹⁶ Whenever a modified project agreement has been executed by the state highway commission and the United States department of agriculture involving a change in the estimate which determined the obligation set up to provide for such project, the obligation therefor shall be amended to correspond to the revised estimate.

§ 12. Section one hundred and sixty-seven-b ¹⁷ of such chapter is hereby amended to read as follows: § 167b
amended.

§ 167-b. [Elimination of grade crossings; highways through Indian reservations].¹⁸ If it shall become necessary or be deemed advisable to eliminate any railroad grade crossings in connection with the construction or improvement of the federal aid highways, designated and described by this act, the cost of making such elimination shall in the case of a state highway ¹⁹ be borne fifty per centum by the railroad company owning the railroad affected by the elimination in accordance with the provisions of the railroad law, twenty-five per centum by the federal government and twenty-five per centum by the state. ²⁰ In the case of a county highway the cost of making such elimination shall be borne fifty per centum by the railroad company and the remaining fifty per centum jointly by the federal government, state and county in the same proportion as the cost of construction or improvement of such county highway is paid. If any federal aid highway, designated and described by this act shall be constructed into or through an Indian reservation, then the cost of construction of such highway shall be borne fifty per centum by the federal government and fifty per centum by the state.

§ 13. Section one hundred and seventy ²¹ of such chapter is hereby amended to read as follows: § 170
amended.

§ 170. Commission to provide for maintenance and repair. The maintenance and repair of improved state and county highways in towns and incorporated villages, exclusive, however, of the cost of maintaining and repairing bridges having a span of

¹⁶ Remainder of section new.

¹⁷ As added by L. 1921, ch. 198.

¹⁸ Section heading inserted by editor.

¹⁹ Words "in the case of a state highway" new.

²⁰ Following sentence new.

²¹ As amended by L. 1911, ch. 646; L. 1912, ch. 83; L. 1913, ch. 80; L. 1916, ch. 578.

five feet or over, shall be under the direct supervision and control of the commissioner of highways and he shall be responsible therefor. Such maintenance and repair may be done in the discretion of the commissioner either directly by the department of highways or by contract awarded to the lowest responsible bidder at a public letting after due advertisement, and under such rules and regulations as the commissioner of highways may prescribe. The commissioner of highways shall also have the power to adopt such system as may seem expedient so that each section of such highways shall²² be effectively and economically preserved, maintained and repaired. The commissioner of highways shall have the power to purchase materials for such maintenance and repairs, except where such work is done by contract, and contract for the delivery thereof at convenient intervals along such highways. ²³ Whenever a state or county highway has been constructed at a greater width than that provided in the plans prepared by the commission upon petition of a town or county as provided in sections one hundred thirty-eight-a, one hundred thirty-eight-b or one hundred and seventy-seven or whenever such highway has been widened by a town or county under a permit granted by the commission as provided in section one hundred and forty-six, the additional width of pavement shall be deemed to be a part of the highway and shall be maintained by the commission as provided herein, but in no case where any such highway has been widened as provided above, shall the state maintain a width of pavement in excess of twenty feet nor shall the state be responsible for the maintenance of any curb or of any paved gutter or paved shoulder, provided, however, that on any highway maintained by the state the commission shall have authority to clean any pavement or paved gutter or repair any unpaved shoulder or unpaved gutter outside of the pavement maintained by the state, where necessary for the protection of such pavement.

§ 170c
amended.

§ 14. Section one hundred and seventy-c²⁴ of such chapter is hereby amended to read as follows:

§ 170-c. **Maintenance by state of canal bridge approaches.** Where a waterway which is a part of the canal system of the state intersects a state or county highway which is maintained adjacent to such intersection pursuant to this article, the pavement and shoulders of the approaches to the bridge structure carrying such highway across such waterway and the area formerly occupied by any such bridge which has been removed and replaced by a fill by the state superintendent of public works,²⁵ shall be considered eligible for maintenance under this article, providing such approach or fill²⁶ has, in the opinion of the state

²² Words "be under constant observation, and" omitted.

²³ Remainder of section new.

²⁴ As added by L. 1918, ch. 324.

²⁵ Words "and the area formerly occupied by any such bridge which has been removed and replaced by a fill by the state superintendent of public works," new.

²⁶ Words "or fill" new.

commissioner of highways, been properly graded in connection with the construction of the canal system of the state. The state commissioner of highways may at any time make an order directing that such section of highway become a part of the system of state or county highways in such county, and thereafter the pavement and shoulders of such approach shall be maintained as a state or county highway in the manner provided in article seven of this chapter. Such order shall be served upon the chairman of the board of supervisors and a certified copy thereof shall be filed in the office of the county clerk and one in the office of the state comptroller. In maintaining such section of highway the commissioner may lay such type of pavement as in his opinion is advisable.

§ 15. Section one hundred and seventy-two²⁷ of such chapter is ^{§ 172} hereby amended to read as follows: ^{amended.}

§ 172. **Cost to town for maintenance of state and county highways.** Each town shall pay for the maintenance and repair of state and county highways each year the sum of fifty dollars for each mile or major fraction of a mile of the total mileage of state and county highways within the town, each incorporated village shall pay for such maintenance and repair at the rate of one and one-half cents for each square yard of pavement²⁸ of such improved highway maintained by the state within its corporate limits.²⁹

On or before the first day of November in each year the commission shall transmit to the clerk of the board of supervisors of each county and to the board of trustees of each village a statement specifying the number of miles of improved state and county highways in each town, the number of square yards of surface of such improved highway as hereinbefore provided in each village in such county and the amount which each of such towns and villages is required to pay into the county treasury on account of the maintenance of state and county highways and a copy of such statements shall be forwarded to the county treasurer. The board of supervisors of the county and the board of trustees of an incorporated village shall cause the amount to be paid by each town and incorporated village of the county, to be assessed, levied and collected therein in the same manner as other town and village charges in the several towns and villages and such amount when collected shall be paid into the county treasurer to the credit of the fund for the maintenance of state and county highways in the several towns and incorporated villages of the county.

²⁷ As amended by L. 1912, ch. 83; L. 1915, ch. 551; L. 1916, ch. 578; L. 1917, ch. 124.

²⁸ Word "pavement" substituted for word "surface."

²⁹ Remainder of sentence omitted which read: "except where a maintenance bond for a period of five years satisfactory in form and sufficiency to the commission shall have been given to the village prior to January first, nineteen hundred and sixteen, such tax herein provided for shall not be levied or paid until the period covered by such maintenance bonds shall have expired, or shall have failed in sufficiency."

§ 172a
repealed.

§ 16. Section one hundred and seventy-two-a³⁰ of such chapter is hereby repealed.

§ 176
amended.

§ 17. Section one hundred and seventy-six³¹ of such chapter is hereby amended to read as follows:

§ 176. **Liability of state for damages.** The state shall not be liable for damages suffered by any person from defects in state and county highways, except between the first day of May and the fifteenth day of November on³² such highways as are maintained by the state under such system as the commissioner of highways may adopt pursuant to section one hundred and seventy,³³ but the liability for such damages shall otherwise remain as now provided by law, notwithstanding the construction or improvement and maintenance of such highways by the state under this chapter; but nothing herein contained shall be construed to impose on the state any liability for defects in bridges over which the state has no control. Within the limits of incorporated villages the state shall maintain a width of pavement equal to the width of pavement constructed or improved at the expense of the state, if a state highway, or of the state and county, if a county highway, the location of the state's portion of such roadway within said incorporated limits to be determined by the center line of the roadway as shown on the plans on file with the state highway department, and the state shall be liable for damages to persons or property only when such damage shall occur as a result of the defective condition of the portion of improved highway as above described.

§ 177
amended.

§ 18. Section one hundred and seventy-seven³⁴ of such chapter is hereby amended to read as follows:

§ 177. **Additional width or different type of construction under repair contracts.** Whenever in the maintenance and repair of state and county highways the commission shall have determined upon the necessity of resurfacing such highway, the county,³⁵ town or village wherein the highway is located may petition the commission to provide an additional width or a different type of pavement, or both, in the plans providing for such resurfacing. The additional expense of such widening or different type of construction shall be borne wholly by such county,³⁶ town or village and the provisions of sections one hundred and thirty-seven,³⁷ one hundred and thirty-eight-a and one hundred and thirty-eight-b³⁷ shall apply to such additional width or different type of construction under such repair contract in the same manner as under a construction contract as provided in those sections.

³⁰ As added by L. 1916, ch. 578, and amended by L. 1917, ch. 261.

³¹ As amended by L. 1910, ch. 570; L. 1912, ch. 83; L. 1916, ch. 578.

³² Words "between the first day of May and the fifteenth day of November on," new.

³³ Words "under such system as the commissioner of highways may adopt pursuant to section one hundred and seventy," substituted for words "by the patrol system."

³⁴ As added by L. 1916, ch. 578.

³⁵ Word "county" new.

³⁶ Word "and" omitted.

³⁷ Words "and one hundred and thirty-eight-b," new.

§ 19. Section two hundred and fifty-eight of such chapter is hereby amended to read as follows: § 258
amended.

§ 258. **Duty of town³⁸ superintendents.** The order for building, re-building or repairing a bridge being made, and a copy thereof being served on the town superintendent of such adjoining towns respectively the town superintendent of such towns shall forthwith meet and cause such bridge to be built, rebuilt or repaired in accordance with plans and specifications prepared or approved by the district or county superintendent and by the state commissioner of highways if such bridge is located on a state or county highway,³⁹ out of any funds in the hands of the supervisors of such towns applicable thereto; if an inadequate amount of such funds are on hand, the town boards of such towns shall direct the town superintendents thereof to build, rebuild or repair such bridge, and the same shall be done upon credit, or in part for cash or in part upon credit according to the exigency of the case; and such town boards shall direct the superintendents to enter into a contract, to be approved by such town boards, for building, re-building or repairing such bridge pledging the credit of each town for the payment of its appropriate share so far as the same shall be upon credit.

§ 20. Section three hundred and thirty-three⁴⁰ of such chapter is hereby amended to read as follows: § 333
amended.

§ 333. **Trees; to whom they belong.** All trees standing or lying on land within the bounds of any highway, shall be for the proper use of the owner or occupant of such land, except that they may be required to repair the highways or bridges of the town⁴¹ but no growing tree planted by the state or by any county or town within the bounds of a state or county highway shall be cut down or destroyed without the written consent of the state commissioner of highways. Where a right of way has been or shall be acquired, under the provisions of this chapter, for a state or county highway, the owner of the fee shall have and may harvest for his own use the fruit upon all fruit-bearing trees left standing from time to time within the right of way so acquired, until forbidden in writing by the governing board of the political subdivisions in which the title to such right of way vests.

§ 21. Section three hundred and thirty-seven of such chapter is hereby amended to read as follows: § 337
amended.

§ 337. **Penalties, how recovered.** All penalties for forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the town superintendent, in the name of the town in which the offense shall be committed; and when recovered, shall be applied by him in improving the highways and bridges in such town,⁴² except that if the offense occurs on any

³⁸ Word "town" new.

³⁹ Words "and by the state commissioner of highways if such bridge is located on a state or county highway," new.

⁴⁰ As amended by L. 1916, ch. 147.

⁴¹ Remainder of sentence new.

⁴² Remainder of section new.

highway included in the systems defined by sections one hundred and twenty and one hundred and twenty-two of this chapter, such penalties or forfeitures may be recovered by the state commissioner of highways and where so recovered shall be paid to the state treasurer to the credit of the fund available for the maintenance and repair of state and county highways.

§ 22. This act shall take effect immediately.

CHAPTER 372

AN ACT to amend the highway law, in relation to fees of the tax commission for registration upon change of ownership of motor vehicle.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 30, § 282, subd. 8, as added by L. 1910, ch. 374, and amended by L. 1921, ch. 580, amended.

Section 1. Subdivision eight of section two hundred and eighty-two of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten and last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows:

8. Sale and registration by vendee. Upon the sale or transfer of a motor vehicle registered in accordance with this section, the vendor shall endorse upon the certificate of registration of such motor vehicle the name and address of the vendee and the date of delivery, and shall sign such endorsement and shall deliver the same to the vendee together with a statement of transfer of ownership, said statement to be furnished by the tax commission and shall be in such form and executed in such manner as the tax commission shall prescribe. The vendee shall complete the execution of such statement and within ten days after the receipt thereof file the same with the tax commission. Upon filing such statement duly verified such vendee shall pay to the tax commission a fee of two dollars,² and upon receipt of such statement and fee the tax commission shall file such statement in its office and note upon the registration book or index such change in ownership. Such motor vehicle may be operated and driven on the public highways of this state under the registration certificate issued to the vendor for a period of ten days from the date endorsed thereon by the vendor. At the expiration of said period of ten days the said registration shall be suspended and the operation of such motor vehicle thereunder is prohibited. It shall be unlawful for any person to deliver or offer to deliver or to accept

¹ Previously amended by L. 1911, ch. 491; L. 1919, ch. 379; L. 1921, ch. 81.

² Formerly "one dollar."

or offer to accept a transfer of any motor vehicle unless there be produced and delivered to the vendee the certificate of registration issued for such vehicle endorsed as hereinbefore required. A violation of this provision shall be a misdemeanor punishable by a fine not exceeding one hundred dollars or by imprisonment not exceeding sixty days, or by both, in the discretion of the court.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

*In effect
July 1,
1922.*

CHAPTER 373

AN ACT to amend the public health law, in relation to licenses to practice chiropody and podiatry.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article thirteen of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," is hereby amended by adding thereto a new section, to follow section two hundred and seventy-eight, to be section two hundred and seventy-eight-a, to read as follows:

*§ 278a
added to L.
1909, ch. 49.*

§ 278-a. **Podiatry; registration.** Every person practicing podiatry shall annually in the month of June re-register with the regents and report under oath to the regents any facts required by them and shall pay to the regents a fee of two dollars and shall receive a certificate of re-registration which must be conspicuously displayed in a conspicuous place in the principal office wherein he practices podiatry and whenever required, exhibit such certificate to any authorized representative of the regents. Before the first day of June of each year the regents shall mail to every podiatrist registered in the state of New York a blank application for re-registration, addressing the same in accordance with the postoffice address given at the last previous registration. Upon receipt of such application blank, which shall contain space for the insertion of his name, office and postoffice address, date and number of his license, and such other information as the regents may deem necessary, he shall sign and forward this statement and application for the renewal of his registration certificate to the regents together with a fee of two dollars. Upon receipt of such application and fee, and having verified the accuracy of the same, by comparison with the applicant's initial registration, the regents shall issue a certificate of re-registration which shall render the holder thereof a legal practitioner of podiatry for the ensuing year.

These certificates of re-registration shall all bear the date of July first of the year of issue, and shall expire the thirtieth day of June of the year following. Applications for re-registration therefor must be made during the month of June of each year,

and if not so made an additional fee of one dollar for each thirty days of delay beyond the first day of July and up to the first day of January, shall be added to the regular fee. On the first day of October of each year, or within ten days thereafter, the regents shall publish and mail to every registered podiatrist in the state of New York a printed list of the legally registered podiatrist within the state, and each published list shall contain at the beginning thereof these words: "Each registered podiatrist receiving this list is requested to report to the regents the name and address of any persons known to be practicing podiatry, whose names do not appear in this registry. The names of the persons giving such information shall not be divulged." If any podiatrist continues to practice chiropody without registration as herein provided his license may be suspended or revoked by the regents, in accordance with the provisions of this section. If any practitioner shall fail to re-register in time for the appearance of his name in the published list of registered podiatrists in accordance with the provisions of this act the regents shall notify said delinquent to appear before them at an appointed time and place, and if his explanation of his failure to have registered shall be satisfactory to the regents, he may be reinstated and his name added to the registry; and the regents may also at their option remit the additional fees accruing because of the delay in re-registering. But should the delinquent's explanation prove unsatisfactory, the regents may suspend the person from the practice of podiatry for a limited season; or the regents may revoke the person's license.

A podiatrist who has been heretofore duly licensed and registered to practice in this state whose license shall not have been revoked or suspended and who either before or after re-registration as required by this section as hereby amended, shall have temporarily abandoned the practice of podiatry or removed from the state, may re-register within the state, upon complying with the provisions of this section for re-registration, and also filing with the regents his affidavit of such facts.

§ 281a
added.

§ 2. Such article is hereby amended by adding thereto a new section, to follow section two hundred and eighty-one, to be section two hundred and eighty-one-a, to read as follows:

§ 281-a. **Violations prosecuted.** The attorney-general of the state of New York shall have the power to prosecute in any county of the state of New York any violation of this article. Such prosecution may be instituted by him in his discretion or after complaint made to him by any person or corporation. All violations of this article when reported to the regents and duly substantiated by affidavits or other satisfactory evidence shall be investigated and if the report is found to be true, and the evidence substantiated, the regents shall report such violations to the attorney-general and request prompt prosecution. The regents may appoint such inspectors as are necessary to be paid from the funds received under the act at such salaries as they may determine for the purpose of the investigation of such violations.

§ 282a
added.

§ 3. Such article is hereby amended by adding thereto a new

section, to follow section two hundred and eighty-two, to be section two hundred and eighty-two-a, to read as follows:

§ 282-a. **Definitions.** Whenever the word "chiropody" is used in this article the word "podiatry" shall be considered as having the same meaning and effect and whenever the word "chiropodist" is used in this article the word "podiatrist" shall be considered as having the same meaning and effect.

§ 4. This act shall take effect immediately.

CHAPTER 374

AN ACT to amend the real property law, in relation to certain fences and structures being private nuisances.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," is hereby amended by inserting at the end of article one a new section, to be section three, to read as follows: § 3 added to L. 1909, ch. 53.

§ 3. **Fences and structures, when private nuisance.** Whenever the owner or lessees of land shall erect or shall have erected thereon any fence or structure in the nature of a fence which shall exceed ten feet in height, to exclude the owner or occupant of a structure on adjoining land from the enjoyment of light or air, the owner or occupant who shall thereby be deprived of light or air shall be entitled to maintain an action in the supreme court to have such fence or structure adjudged a private nuisance. If it shall be so adjudged its continued maintenance may be enjoined. This section shall apply to all such existing fences or structures but shall not apply to any action now pending nor shall it preclude the owner or lessee of land from hereafter improving the same by the erection of any structure thereon in good faith.

§ 2. This act shall take effect immediately.

CHAPTER 375

AN ACT to amend the tax law, in relation to the definition of the term "corporation."

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-one of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An L. 1909, ch. 62, § 181, as amended

by L. 1921,
ch. 705,
amended.

act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter seven hundred and five of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follow:

§ 181. **License tax on foreign corporations.** ²As used in this section, the term "corporation" includes a joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument. Every foreign corporation, except banking corporations, fire, marine, casualty and life insurance companies, co-operative fraternal insurance companies, and building and loan associations, doing business in this state, shall pay to the state treasurer, for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state, during the first year of carrying on its business in this state; which first payment shall not be less than ten dollars; and if any year thereafter any such corporation shall employ more than eight thousand dollars of its capital stock within this state on which a license fee has not been paid then a license fee at the rate of one-eighth of one per centum shall be due and payable upon any such increase. The measure of the amount of capital stock employed in this state shall be such a portion of the issued capital stock as the gross assets employed in any business within this state bear to the gross assets wherever employed in business. The issued capital stock of any corporation issuing shares without designated monetary value shall pay for the use of the state a license fee of six cents on each such share employed in this state, as hereinbefore provided. For purposes of taxation, the capital of a corporation invested in the stock of another corporation shall be deemed to be assets located where the physical property represented by such stock is located. The amount of capital upon which such license fees shall be paid shall be fixed by the state tax commission, which shall have the same authority to examine the books and records in this state of such foreign corporations, and the employees thereof as it has in the case of domestic corporations, and the comptroller, or on and after July first, nineteen hundred and twenty-one, the state tax commission, shall have the same power to issue a warrant for the collection of such license fees, as now exists with regard to domestic corporations. No action shall be maintained or recovery had in any of the courts in this state by such foreign corporation after thirteen months from the time of beginning such business within the state, without obtaining a receipt for the payment of the license fee upon the capital stock employed by it within this state during the first year of carrying on its business in this state.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1910, ch. 340; L. 1915, ch. 317; L. 1917, ch. 490.

² Following sentence new.

CHAPTER 376

AN ACT to amend the tax law, in relation to defining the word "corporation."

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section two hundred and eight of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen, and last amended by chapter six hundred and twenty-eight of the laws of nineteen hundred and nineteen¹ is hereby amended to read as follows:

1. The term "corporation" includes a joint-stock company or association² and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument;

§ 2. This act shall take effect immediately.

L. 1909, ch. 62, § 208, subd. 1, as added by L. 1917, ch. 726, and amended by L. 1919, ch. 628, amended.

CHAPTER 377

AN ACT to legalize and confirm the tax levied for the repair and improvement of highways upon the assessment-rolls of the several towns for the year nineteen hundred and twenty-one.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The taxes levied in the year of nineteen hundred and twenty-one for the repair and improvement of highways upon the real and personal property of the several towns are hereby legalized and confirmed so as to be of the same force and effect as though the boards of supervisors had in said year levied the minimum amount required to be levied and collected under the provisions of subdivision one, section ninety, chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws."

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1918, ch. 417.

² Remainder of subd. 1 new.

CHAPTER 378

AN ACT to amend the farms and markets law, in relation to the heating of skimmed milk, whey, buttermilk or separator slop before used for feeding.

Became a law March 30, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922, ch.
48, § 55
amended.

Section 1. Section fifty-five of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:¹

§ 55. **Skim milk, whey, buttermilk or separator slop to be heated before used for feeding.** Any person, firm, association or corporation owning or operating any butter factory, cheese factory or other milk plant, shall, before returning, delivering or giving to any person or persons any skimmed milk, whey, buttermilk or separator slop, to be used for the feeding of domestic animals, cause such skimmed milk, whey, buttermilk or separator slop to be uniformly heated to a temperature of not less than one hundred and fifty degrees Fahrenheit and held at such temperature for at least twenty minutes. No skimmed milk, whey, buttermilk or separator slop from such butter factory, cheese factory or other milk plant shall be used for the feeding of domestic animals until heated as provided herein.

In effect
Oct. 1,
1922.

§ 2. This act shall take effect October first, nineteen hundred and twenty-two.

CHAPTER 379

AN ACT to incorporate the Buffalo and Fort Erie Public Bridge Company, and to define its purposes and provide for the exercise of its powers.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corpo-
rators,
Corporate
name.

Section 1. All persons who shall become stockholders pursuant to this act shall be and they are hereby constituted a body corporate by the name of "Buffalo and Fort Erie Public Bridge Company."

Purposes.

§ 2. The purposes of such corporation are:

a. To construct or contract for the construction of and to maintain and operate a public bridge, and approaches and works pertaining thereto, across the Niagara river from a point suitable to the interests of navigation within or near the city limits of Buffalo, in the county of Erie and the state of New York, to some point in or near the village of Fort Erie in the province of On-

¹ Section 55 materially amended.

tario, Dominion of Canada, for the passage of pedestrians, vehicles, carriages, and street cars, or for any other like purpose.

b. To purchase, acquire, receive, hold, lease, mortgage, convey and improve such real estate and personal property on either side of the Niagara river, or within it, as may be necessary or convenient for the accomplishment of the objects for which this charter is granted.

c. To associate, merge, consolidate, or contract with any other company, association or corporation in Canada organized for the construction, maintenance and operation of a public bridge across the Niagara river from some point in Canada within the corporate limits of the village of Fort Erie to a point within the limits of the city of Buffalo in the state of New York, or to acquire the business, good will, franchises, rights and property of any such company, association or corporation, and pay therefor in cash, in stock or bonds of this corporation, or otherwise, as the board of directors of this corporation may deem best, and to hold, use, mortgage, lease, and convey or in any manner dispose of the whole or any part of the business, good will, franchises, rights and property so acquired; or to conduct in any lawful manner the whole or any part of the business so acquired.

d. To do all and everything necessary, suitable and proper for the accomplishment of any of the above purposes or the attainment of any of the above objects or the furtherance of any of the powers herein set forth, either alone or in association with other corporations, associations, or municipalities, foreign or domestic.

§ 3. The amount of the capital stock of such corporation shall be three millions of dollars, classified into common and preferred capital stock, or into one or more classes of capital stock, as may be determined by resolution of the board of directors by a majority vote prior to the issuance of such capital stock.

Capital
stock;
value, how
classified.

§ 4. The number of shares of which the capital stock shall consist is thirty thousand, of the par value of one hundred dollars each, and the corporation may issue and may sell its authorized shares from time to time for such consideration as from time to time may be fixed by the board of directors, and any and all shares issued as permitted by this act shall be deemed fully paid and non-assessable, and the holders of such shares shall not be liable to the corporation or to its creditors in respect thereof.

Capital
stock;
number of
shares, etc.

§ 5. Its principal business office is to be located in the city of Buffalo, county of Erie and state of New York, but the corporation shall have power to conduct its business or any part thereof in any and all states or foreign countries.

Principal
office, etc.

§ 6. The stock, property, affairs and concerns of said corporation shall be managed by a board of directors of not less than seven nor more than twenty-five, as may be determined by the stockholders at the annual meeting, or as may be prescribed in the by-laws of the corporation.

Directors.

§ 7. The corporation may make by-laws for the election of officers and directors and their terms of office; for the management

By-laws.

of its property; the regulation of its affairs, the retirement and the transfer of its stock and the calling of the meetings of its stockholders; fixing the amount of stock which must be represented at meetings of the stockholders in order to constitute a quorum; the number of directors which the corporation shall have and the number of directors necessary to constitute a quorum of the board of directors, which, until otherwise specified in the by-laws of the corporation, shall be a majority thereof, and for such other purposes as it deems advisable. Subject to the by-laws, if any, adopted by the stockholders of the corporation, the directors may make necessary by-laws for the corporation.

First
directors.

§ 8. The directors of the corporation, until otherwise elected by the stockholders, or until otherwise appointed or elected by the filling of vacancies, shall be Frank B. Baird, Edward J. Barcalo, Marcus Barmon, Emanuel Boasberg, Charles Clifton, John W. Cowper, William A. Eckert, Louis A. Fischer, Carmelo Gu-gino, Charles M. Heald, Edward B. Holmes, Allan I. Holloway, Edgar E. Joralemon, Charles B. Kane, Edward Kener, John A. Kloefer, Stanislaus Lipowicz, Edward P. Lupfer, James H. McNulty, Jacob J. Siegrist, John W. Van Allen, John G. Wickser, Floyd M. Wills and Frank Winch. The board of directors as from time to time constituted shall have power to fill any vacancies arising from death, disqualification or resignation, and the person so elected or so appointed to fill any such vacancy shall hold office until the next meeting of the stockholders for the election of directors, or until his successor is elected or appointed and qualified.

Vacancies.

Payments
on stock
subscrip-
tions.

§ 9. The directors may require from stockholders payment of all sums of money by them subscribed at such times and in such proportions as may be deemed proper, under the penalty of forfeiture of their respective shares and all payments thereon.

Power to
borrow
money and
contract
debts.

§ 10. In addition to the other power conferred on the corporation herein, it shall have the power to borrow money and to contract debts when necessary for the transaction of the business or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of the corporation, and it may issue and dispose of its bonds or other obligations for any amount so borrowed on such terms and at such prices as may be fixed by the board of directors, and may mortgage or convey by deed of trust its property and franchises to secure the payment of such bonds or other obligations or of any debt contracted for its purposes, which mortgage or deed of trust may contain such terms, conditions or provisions as may be prescribed by its board of directors. The consent of a majority of the board of directors in writing or by resolution shall be sufficient to authorize the execution and issuance of any such mortgage or deed of trust and bonds or other obligations secured thereby.

Power to
occupy
streets
etc. in
Buffalo.

§ 11. The corporation shall have power to use and occupy, lease or acquire any of the lands, streets, squares, or public places of the city of Buffalo, New York, for the erection of such bridge and the works or approaches thereto pertaining, provided the consent of the council of the said city shall first be obtained.

§ 12. The city of Buffalo is hereby authorized to consent to the use, occupation, lease or acquisition of such lands, streets, squares, or public places owned by it or in which it has an interest, necessary for the construction and operation of such bridge, works or approaches thereto pertaining, including lands obtained or used for public purposes, and is authorized and empowered to make and provide such terminal facilities, including changes in public streets or grounds as may be deemed necessary to accommodate the public travel to and from said bridge within the city of Buffalo.

City authorized to consent thereto, and to provide terminals.

§ 13. The state of New York hereby consents to the use and occupation of the lands of the state of New York, including the lands under the waters of the Niagara river, necessary for the construction and operation of said bridge, including the rights of the state of New York in and to the lands and structures granted to the United States for the purpose of the construction of the ship canal, pursuant to chapter three hundred and seventy-three of the laws of nineteen hundred and four, subject, however, to the approval by the commissioners of the land office of the location of such bridge; and the United States government is authorized and permitted to consent to the use and occupation of the lands and structures granted by the state of New York to the United States pursuant to said chapter three hundred and seventy-three of the laws of nineteen hundred and four for the construction, maintenance and operation of such bridge and the piers and approaches thereto.

Authority to use lands of state.

United States authorized to permit use of lands granted.

§ 14. When such bridge shall be completed it shall be open to the lawful passage of all persons, vehicles, and street cars, and the corporation shall have the right to charge and collect such just and reasonable tolls as may be authorized under the statutes of the United States.

Bridge to be open to public; tolls.

§ 15. The duration of this corporation shall be perpetual.

Duration.

§ 16. When the corporate obligations of this corporation shall have been paid and its capital stock shall have been retired in the manner prescribed in its by-laws its property, rights and franchises situated within the state of New York shall be conveyed to the state of New York or such municipality or agency or agency of the state as the legislature thereof may designate and its property, rights and franchises acquired from or situated within the Dominion of Canada shall be conveyed to the Dominion of Canada or such province, municipality or agency thereof as the Dominion of Canada may designate.

Conveyance to state, Canada or municipality, etc.

§ 17. Before the construction of said bridge shall be begun the corporation shall pay to the treasurer of the state of New York such fees for incorporation as are imposed upon the business corporations having an authorized capital stock of the amount stated herein; and all requisite and proper authority for the construction, location, maintenance and operation of said bridge shall be obtained from the United States of America and from the Dominion of Canada.

Incorporation fees.

Authority to be obtained.

Right to
sue and be
sued.

§ 18. The corporation shall have the right to sue and be sued in any court of competent jurisdiction to the same extent and in the same manner as any other domestic corporation of the state of New York.

Par value
of capital
stock lim-
ited.

§ 19. The par value of capital stock and bonds issued by the corporation shall not exceed the cost of construction of such bridge and its approaches, cost of financing the sale of its securities, discount on the sale of its bonds, the amount below par at which its stock is sold but not exceeding fifteen per centum of its par value, and the cost of any additions, improvements and betterments thereon, and the amount of other capital expenditures as from time to time made for any purpose and such other expenditures as may be necessary in maintaining, repairing and operating such bridge and structures related thereto.

§ 20. This act shall take effect immediately.

CHAPTER 380

AN ACT to amend the conservation law, in relation to the open season for waterfowl.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
647, § 211,
subd. 1, as
added by
L. 1912, ch.
318, and
amended by
L. 1919, ch.
1, amended.

Section 1. Subdivision one of section two hundred and eleven of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter one of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

1. Open season. Waterfowl, wild and domestic, except wood duck, eider ducks and swan, may be taken from September sixteenth to December thirty-first, both inclusive and ² may be possessed from September sixteenth to January tenth, both inclusive, ³ except that they may be taken in that portion of the state south of the New York Central and Hudson river railroad main line tracks from Buffalo to Albany and south of the Boston and Albany railroad tracks from Albany to the Massachusetts state line from October sixteenth to January thirty-first, both inclusive, and may be possessed from October sixteenth to February tenth, both inclusive.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1913, ch. 508; L. 1917, ch. 486.

² Word "and" substituted for word ". They."

³ Remainder of subd. 1 new.

CHAPTER 381

AN ACT to amend the conservation law, in relation to aliens.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-four of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter four hundred and forty-four of the laws of nineteen hundred and twelve, is hereby amended to read as follows:

L. 1911, ch. 647, § 24, as added by L. 1912, ch. 444, amended.

§ 34. **Search warrants; when issued.** Any justice of the peace, police justice, county judge, judge of a city court or magistrate having criminal jurisdiction shall, if it appear probable that fish, birds or game taken or possessed contrary to the provisions of article five of this chapter are concealed or that a rifle or shotgun owned or possessed by an unnaturalized foreign born person in violation of any provision of this chapter is concealed,¹ issue a search warrant for the discovery thereof, in accordance with the practice provided in title two of part six of the code of criminal procedure, so far as the same are applicable thereto.

§ 2. Section thirty-six of such chapter, as added by chapter five hundred and twenty-one of the laws of nineteen hundred and sixteen and last amended by chapter three hundred and twenty-eight of the laws of nineteen hundred and twenty-one² is hereby amended to read as follows:

§ 24, as added by L. 1916, ch. 521, and amended by L. 1921, ch. 329, amended.

§ 36. **Compromise of civil penalty before a court or justice having jurisdiction in civil actions.** A person who has violated any of the provisions of this chapter and who desires to compromise and settle his civil liability therefor may appear with any regular or special game protector, fisheries protector, member of the state police, fire superintendent, forest ranger or inspector, before a court or justice having jurisdiction in civil actions, and thereupon such person may, upon the consent of the representative of the conservation commission appearing, compromise and settle his liability for civil penalties under this chapter, for an amount agreed upon between said court or justice, the representative of the conservation commission and the person who committed such violation, which amount shall be not less than ten dollars nor more than the amount for which such person would be liable in a civil action for penalties;³ provided, that any person

¹ Words "or that a rifle or shotgun owned or possessed by an unnaturalized foreign born person in violation of any provision of this chapter is concealed," new.

² Previously amended by L. 1917, ch. 486.

³ Remainder of sentence new.

who has violated any of the provisions of section one hundred and seventy-six, subdivision two, of this chapter and who desires to compromise and settle his civil liability therefor, shall, before such compromise or settlement is effected, deliver up to the court or justice before whom he appears all rifles and shotguns owned or possessed by him or which may be under his control, and the same shall be deemed forfeited to the state of New York. If such compromise be made, such person shall forthwith subscribe his name to a statement setting forth concisely the facts constituting such violation, the amount agreed upon, and that a judgment may be entered against him for that sum. Upon said statement being sworn to before and filed with said court or justice, he shall forthwith enter in his civil docket a record of the proceedings and the amount of the judgment.

Said court or justice shall upon the entry of such judgment be entitled to a fee of one dollar and fifty cents to be paid by the person who committed such violation.

A judgment entered as provided herein may be enforced by an execution against the property of the defendant; but no body execution shall issue thereon. Such judgment shall be a bar to a criminal action for the same violation, if satisfied within thirty days from the date of the entry thereof; 'except that where a person who has violated any provision of section one hundred and seventy-six, subdivision two, of this chapter has failed, upon the compromise of his civil liability therefor, to deliver up to the court or justice before whom he appears all rifles or shotguns owned or possessed by him or which may be under his control, the judgment entered upon such compromise shall not be a bar to a criminal action for the same violation.

§ 37, as
added by
L. 1917,
ch. 496,
amended.

§ 3. Section thirty-seven of such chapter, as added by chapter four hundred and eighty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 37. **Certificate by court or justice.** The court or justice before whom any person shall be tried or before whom a compromise of the civil penalties for a violation of any provision of this chapter shall have been made, or the clerk of the court, if there be a clerk, shall, at the termination of such trial or proceeding, forthwith mail or deliver to the conservation commission at Albany a certified statement of the disposition of the case or proceeding, giving the date thereof, the name of the defendant, the name of the person upon whose information the action or proceeding was instituted, the date and place of the violation, the name of each witness sworn in support of the charges and the costs of the court or fees of the justice, and the fees of the constable, if any. 'Whenever such trial or proceeding shall be for a violation of any of the provisions of section one hundred and seventy-six, subdivision two, of this chapter the court or justice having jurisdiction of the case shall likewise forthwith give notice to the conservation commission at Albany of the seizure or receipt of any and all rifles and shotguns delivered up to him or

⁴ Remainder of section new.

seized in accordance with law, and shall hold the same subject to the order of the commission.

§ 4. Section one hundred and seventy-six of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter five hundred and eight of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

§ 176, as added by L. 1912, ch. 318, and amended by L. 1913, ch. 508, amended.

§ 176. **Taking, limit, possession, sale and transportation of fish and game restricted.** 1. No person shall at any time of the year, pursue, take, wound or kill, in any manner, number or quantity, any fish, quadrupeds or birds protected by law, or buy, sell, offer, or expose the same, or any part thereof, for sale, transport, or have the same in possession except as permitted by this article. Nets except in the marine district, tip-ups, set and trap lines, spears, grappling hooks, naked hooks, snatch hooks, eel weirs and eel pots shall not be used to take fish except as specifically permitted by this article. Any person aiding in any manner in such prohibited acts shall be deemed to have violated this section.

2.⁵ It shall be unlawful for any unnaturalized foreign born person resident in the United States to hunt for, or capture or kill, in this state any wild bird or animal, either game or otherwise, of any description, excepting in defense of person or property and except under a special license issued directly by the conservation commission; and to that end it shall be unlawful for any unnaturalized foreign born person resident in the United States within this state, to own or be possessed of a shotgun or rifle of any make.

§ 5. Section one hundred and eighty-one of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter ninety-two of the laws of nineteen hundred and fourteen,⁶ is hereby amended to read as follows:

§ 181, as added by L. 1912, ch. 318, and amended by L. 1914, ch. 92, amended.

§ 181. **Presumptive evidence.** Possession of quadrupeds, birds or fish, or of parts thereof, during the time when the taking of the same in this state is prohibited, or when the possession of the same after the close of the open season is not permitted, shall be presumptive evidence that the same was unlawfully taken by the possessor.

Quadrupeds, birds or fish, lawfully taken and possessed in one part of the state, may be transported by the taker as provided by section one hundred and seventy-eight of this chapter and may be possessed by the taker in any part of the state for the same period of time during which they may be lawfully possessed at the place where taken.

⁷ The presence of a shotgun or rifle in a room or house, or building or tent, or camp of any description, within this state, occupied or controlled by an unnaturalized foreign born person resident in the United States, shall be prima facie evidence that such gun is

⁵ Subd. 2 new.

⁶ Previously amended by L. 1913, ch. 508.

⁷ Remainder of section new.

owned or controlled by the person occupying or controlling the property in which such gun is found, and shall render such person liable to the penalty imposed for a violation of section one hundred and seventy-six, subdivision two, of this chapter.

§ 184
added.

§ 6. Such chapter is hereby amended by adding, at the end of part three, a new section, to be section one hundred and eighty-four, to read as follows:

§ 184. **Forfeiture of firearms.** In addition to the penalties prescribed by section one hundred and eighty-two of this chapter, all shotguns and rifles found in the possession or under the control of an unnaturalized foreign born person resident in the United States, or taken by means of a search warrant as provided by law, shall, upon the conviction of such unnaturalized foreign born person, be immediately delivered to the court or justice having jurisdiction of the case and shall be deemed forfeited to the state of New York.

§ 185, subd.
1, as added
by L. 1912,
ch. 318, and
amended by
L. 1913,
ch. 508,
amended.

§ 7. Subdivision one of section one hundred and eighty-five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and amended by chapter five hundred and eight of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:⁸

1. License required. No person or persons shall at any time, hunt, pursue or kill with a gun, any wild animals, fowl or birds or take with traps or other devices any fur bearing animals, or engage in hunting or trapping except as herein provided, without first having procured a license so to do, and then only during the respective periods of the year when it shall be lawful.

§ 185, subd.
2, as added
by L. 1912,
ch. 318, and
amended by
L. 1917,
ch. 81,
amended.

§ 8. Subdivision two of section one hundred and eighty-five of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter eighty-one of the laws of nineteen hundred and seventeen,⁹ is hereby amended to read as follows:

2. Application; penalties. Said license shall be procured from the county, city or town clerk of the county, city or town in the following manner, to wit: The applicant shall fill out a blank application to be furnished by the commission through the clerk of each county, city or town, stating his name, age, occupation, place of birth, place of residence, post-office address, whether a citizen of the United States or an alien and such other facts or descriptions as may be required by the commission; and if such applicant is a foreign born person he shall submit to the clerk to whom the application is made his naturalization papers.¹⁰ Said application shall be subscribed and sworn to by the applicant before any officer authorized to administer oaths in the state of

⁸ Subd. 1 is not in fact amended.

⁹ Previously amended by L. 1913, ch. 508.

¹⁰ Subd. 2 to here materially amended.

New York. Where the application is made to a town or city clerk, it may be sworn to before such clerk, who is hereby authorized to administer an oath for that purpose. Any false statement contained in such application shall render the license null and void. Any person who shall make any false statement in an application for a license, shall be deemed guilty of perjury, and, on conviction thereof, shall be subject to the penalties provided for the commission of perjury.

§ 9. Subdivision three of section one hundred and eighty-five of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter five hundred and twenty-one of the laws of nineteen hundred and sixteen,¹¹ is hereby amended to read as follows:¹²

§ 185, subd. 3, as added by L. 1912, ch. 218, and amended by L. 1916, ch. 521, amended.

3. Fees. Said applicant, if a resident of the state for over six months and a citizen, shall pay to the clerk countersigning and issuing the license the sum of one dollar as a license fee, together with the sum of twenty-five cents as the fee of the county, city or town clerk for issuing such license, and if a non-resident of the state, shall pay to the clerk countersigning and issuing the license the sum of ten dollars together with the sum of fifty cents as a fee to the clerk. The fee to be paid by an Indian residing in the state, or by a member of the six nations residing on any reservation wholly or partly within the state, shall be one dollar together with the sum of twenty-five cents as a fee to the clerk.

§ 10. Subdivision five of section one hundred and eighty-five of such chapter, as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter five hundred and eight of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

§ 185, subd. 5, as added by L. 1912, ch. 218, and amended by L. 1913, ch. 508, amended.

5. Contents and power under. Said license shall be issued in the name of the commission, and be sealed with the seal of the county, city or town in which the same is issued and be countersigned by the clerk issuing the same. Every license issued shall be signed by the licensee in ink on the face thereof. It shall entitle the person to whom issued to hunt, pursue and kill game animals, fowl and birds and trap fur bearing animals within the state at any time, when or place where it shall be lawful to hunt, pursue, kill and take such game animals, fowl and birds in this state. ¹³ The license shall not entitle the holder to hunt, pursue, kill or take such game animals, fowl and birds upon an Indian reservation unless the licensee be an Indian residing on such reservation. No such license shall be issued to any unnaturalized foreign born person, resident in the United States, except by special license issued directly by the conservation commission.

§ 11. This act shall take effect immediately.

¹¹ Previously amended by L. 1913, ch. 508.

¹² Subd. 3 materially amended.

¹³ Remainder of subd. 5 new.

CHAPTER 382

AN ACT to amend the general corporation law, in relation to the voluntary dissolution of stock corporations.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
23, § 231,
subd. 1
amended.

Section 1. Subdivision one of section two hundred and twenty-one of chapter twenty-eight of the laws of nineteen hundred and nine, entitled "An act relating to corporations, generally, constituting chapter twenty-three of the consolidated laws," is hereby amended to read as follows:

Meeting of
stock-
holders to
consent to
dissolution.

1. The board of directors of any such corporation may at a meeting called for that purpose, upon at least three days' notice to each director, by a vote of a majority of the whole board, adopt a resolution that it is in their opinion advisable to dissolve such corporation forthwith, and thereupon shall call a meeting of the stockholders for the purpose of voting upon a proposition that such corporation be forthwith dissolved. Such meeting of the stockholders shall be held not less than thirty nor more than sixty days after the adoption of such resolution, and the notice of the time and place of such meeting so called by the directors shall be published in one or more newspapers published and circulating in the county wherein such corporation has its principal office, at least once a week for three weeks successively next preceding the time appointed for holding such meeting, and on or before the day of the first publication of such notice, a copy thereof shall be served personally on each stockholder, or mailed to him at his last known post-office address. Such meeting shall be held in the city, town or village in which the last preceding annual meeting of the corporation was held, and said meeting may, on the day so appointed, by the consent of a majority in interest of the stockholders present, be adjourned from time to time, and notice of such adjournment shall be published in the newspapers in which the notice of the meeting is published. If at any such meeting the holders of two-thirds in amount of the stock of the corporation, then outstanding, shall, in person or by attorney, consent that such dissolution shall take place and signify such consent, in writing, then such corporation shall file such consent, attested by its secretary or treasurer, and its president or vice-president, together with the powers of attorney signed by such stockholders executing such consent by attorney, with a statement of the names and residences of the then existing board of directors of said corporation, and the names and residences of its officers duly verified by the secretary or treasurer or president of said corporation, in the office of the secretary of state. ¹ Provided, however, that no such consent shall be filed unless the written consent of the state tax commission shall be endorsed thereon or attached thereto.

Consent to
be filed;
contents.

Consent of
tax com-
mission.

§ 2. This act shall take effect immediately.

¹ Following sentence new.

CHAPTER 383

AN ACT to amend the stock corporation law, in relation to voting and giving consents by stockholders.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-one of chapter sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to stock corporations, constituting chapter fifty-nine of the consolidated laws," as last amended by chapter one hundred and thirty-one of the laws of nineteen hundred and twenty-one, is hereby amended by inserting therein, after subdivision two thereof and preceding the final paragraph, a new subdivision, to be subdivision three, to read as follows:

Subd. 3
added to
L. 1909,
ch. 61,
§ 61.

3. Either the original certificate of incorporation, or a written consent or certificate filed pursuant to subdivision one or subdivision two of this section, may provide, either absolutely or conditionally, that the holders of any designated class or classes of stock shall not be entitled to vote, or it may otherwise limit or define the respective rights of the holders of the several classes of stock to vote, and such provisions of such certificate shall prevail, according to their tenor, in all elections and in all proceedings, over the provisions of any statute which authorizes any action by the vote or written consent of the holders of all of the stock, or of a specified proportion of the stock of the corporation, except that in a proceeding to reclassify stock, or to acquire power to issue shares without par value, or to extend the term of existence of the corporation, or to dissolve it, or to consolidate it with another corporation, or to change its name, the requirements of the particular statute governing such proceeding shall prevail over any provision of the certificate of incorporation relating to voting rights, in conflict therewith.

Rights of
various
classes of
stock-
holders
to vote.

§ 2. This act shall take effect immediately.

CHAPTER 384

AN ACT to amend the county law, in relation to county charges.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision sixteen of section two hundred and forty of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 16,
§ 240,
subd. 16
amended.

16. The reasonable costs and expenses in proceedings before the governor for the removal of any county officer upon charges preferred against him, including the taking and printing of the testimony therein. ¹ This subdivision shall also apply to the county of New York.

§ 2. This act shall take effect immediately.

CHAPTER 385

AN ACT to amend the state finance law, in relation to the duties of the board of estimate and control and establishing a bureau of standards.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 53,
§ 54a as
added by
L. 1921,
ch. 336,
amended.

Section 1. Section fifty-four-a of article two-a of chapter fifty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to state finance, constituting chapter fifty-six of the consolidated laws," as added by chapter three hundred and thirty-six of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 54-a. **Examination and revision of appropriation requests; tabulated statements.** The board shall examine all statements of desired appropriations filed with it and reports of studies and surveys of state offices, departments and institutions which shall have been made by its direction and make any investigation necessary for its information in relation to appropriations for any such office, department or institution. It may² revise such requests, if it deems it advisable,³ in accordance with information acquired by such studies, surveys and investigations, or to carry out any plan determined by it for revised methods of operation. On or before December thirty-first of each year, following such examination, the board may,³ if it deems advisable,⁴ cause to be prepared and to be filed with the budget secretaries of the finance committee of the senate and ways and means committee of the assembly a statement, addressed to the legislature, of the total amount of appropriations desired by each state officer, board, commission, head of department or officer of a state institution and a tabulated statement of all items of such desired appropriations which are affected by a revision adopted and recommended by the board, together with a statement of such revision, item by item, or of any comprehensive readjustment of all appropriations for any office, department or institution as a substitute for all or any of the items originally requested. With such statement, the board shall submit an estimate of the probable revenues of the state for the ensuing fiscal year. Before completing the annual

¹ Following sentence new.

² Word "may" substituted for word "shall."

³ Words "if it deems it advisable" new.

⁴ Words "if it deems advisable" new.

budget, provided for in the legislative law, the finance committee of the senate and ways and means committee of the assembly shall examine and pass upon the recommendations of the board contained in such tabulated statement.

§ 2. Such article is hereby amended by adding at the end a ^{§ 54e added.} new section, to be section fifty-four-e, to read as follows:

§ 54-e. **Bureau of standards.** The board shall create a bureau of standards and appoint a director thereof and such assistants as may be needed to perform the duties imposed by this section. It shall be the duty of such bureau to establish standards and standard specifications for all materials, supplies and equipment purchased or contracted for by or under the jurisdiction of the superintendent of purchase. In its work it shall advise, consult and cooperate with the head of each state department, board, commission and office and with the superintendent of purchase. All such standards and standard specifications shall be submitted to and approved by the head of each department, commission, board or office requiring such materials, supplies or equipment, except in case of disagreement when the direction of the board shall prevail. Committees of officers and employees of the state shall be selected or appointed by the director of this bureau, to aid in formulating standards and standard specifications and to recommend them for consideration by the bureau.

§ 2. This act shall take effect immediately.

CHAPTER 386

AN ACT to amend the farms and markets law, in relation to commercial fertilizers.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-three of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended to read as follows:

L. 1922,
ch. 48,
§ 143
amended.

§ 143. **Statements to be attached to packages.** No manufacturer, firm, association, corporation or person shall sell, offer or expose for sale in this state any commercial fertilizer or any material to be used as fertilizer, except animal manures which have not been artificially treated or manipulated, unless such commercial fertilizer or material to be used as a fertilizer shall be accompanied by or shall have affixed to each and every package in a conspicuous place on the outside thereof, a plainly printed statement which shall certify as follows:

1. The net weight of the contents of the package.
2. The name, brand or trade mark under which it is to be sold.

3. The name and principal address of the manufacturer or person responsible for the placing of the commodity upon the market.

4. The minimum per centum of each of the following constituents which may be contained therein:

(a) Nitrogen.

(b) Available phosphoric acid, except that in cases of undissolved bone, basic slag phosphate, wood ashes, untreated phosphate rock, garbage tankage and pulverized natural manures, the minimum per centum of total phosphoric acid may be substituted therefor.

(c) Potash soluble in distilled water.

(d) In the case of ground lime rock, marls, mussel shells, and other calcium and magnesium carbonates, hydrates and oxides¹ the minimum per centum of calcium oxide and magnesium oxide. If any commercial fertilizer or material to be used as a fertilizer, be sold, offered or exposed for sale in bulk such printed statement shall accompany every lot and parcel so sold, offered or exposed for sale. That portion of the statement required by this section, relating to the quality of commercial fertilizer or material to be used as a fertilizer, shall be known and recognized as the guaranteed analysis.

§ 2. This act shall take effect April first, nineteen hundred and twenty-two.

In effect
April 1,
1922.

CHAPTER 387 .

AN ACT to amend the public health law, in relation to cadavers in certain counties.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and seventeen of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," is hereby amended to read as follows:

§ 317. **Cadavers in certain counties.** The governors, keepers, wardens, managers, or persons having lawful control and management of any hospital, prison, almshouse, asylum, custodial institution,^{1a} morgue or other receptacle for corpses not interred, in the counties of Oneida,² Onondaga, Oswego, Madison and Cortland, and the warden of the Auburn state prison, in the county of Cayuga, and every undertaker or other person in the counties of Oneida,² Onondaga, Oswego, Madison and Cortland, having in

¹ Words "hydrates and oxides" new. Words "used for agricultural purposes" omitted.

^{1a} Words "custodial institution" new.

² Word "Oneida" new.

L. 1909,
ch. 49,
§ 317
amended.

his lawful possession any such corpses for keeping or burial, may deliver, and they are hereby required to deliver, under the conditions specified in this section, every such corpse in their or his possession, charge, custody or control, not placed therein by relatives or friends in the usual manner for keeping or burial, to the medical colleges or schools in said counties of Oneida,¹ Onondaga, Oswego, Madison and Cortland, authorized by law to confer either the degree of doctor of medicine, or the degree of doctor of dental surgery and to all other colleges or schools incorporated under the laws of the state in said counties for the purpose of teaching medicine, anatomy or surgery, and to any university in either of said counties having a medical preparatory course of instruction, and the professors and teachers in every such college, school or university may receive such corpses and use the same for the purposes of medical, anatomical or surgical science and study. No such corpse shall be so delivered if within forty-eight hours after death, it is desired for interment by relatives, or by friends, who will bear the expenses of its interment; nor shall a corpse be so delivered or received of any person known to have relatives, whose places of residence are also known, without the assent of such relatives; and such relatives shall be deemed to have assented thereto, unless they shall claim such corpse for the interment within twenty-four hours after being notified of the death of such person. If the remains of any person so delivered or received shall be subsequently claimed for interment by any relative or by any friend who will bear the expense of such interment, they shall be given up to such relative or friend for interment. Any person claiming any corpse or remains for interment, as provided in this section, may be required by the persons, college, school, university or officer or agent thereof, in whose possession, charge or custody the same may be, to present an affidavit stating that he is such relative or friend, and the facts and circumstances upon which the claim that he is such relative or friend is based, and, if a friend, that he will bear the expense of such interment, the expense of which affidavit shall be paid by the person requiring it. If such person shall refuse to make such affidavit, such corpse or remains shall not be delivered to him, but he shall forfeit his claim and right to the same. Any such college, school or university in either of said counties desiring to avail itself of the provisions of this section shall notify said governors, keepers, wardens, managers, undertakers and other persons hereinbefore specified in the county where said college, school or university is situated, or in any of said adjoining counties, in which no such college, school or university is situated, of such desire, and thereafter it shall be obligatory upon such governors, keepers, wardens, managers, undertakers and other persons hereinbefore specified, to immediately notify the proper officer or officers of said college, school or university, whenever there is any corpse in their possession, charge, custody or control,

¹ Word "Oneida" new.

which may be delivered to a medical college, school or university under this section, and to deliver the same to such college, school or university. It shall be the duty of such governors, keepers, wardens, managers and persons having lawful control and management of the institutions hereinbefore mentioned, after being duly notified by any college, school or university of its desire to avail itself of the provisions of this section, to keep, if requested so to do by such college, school or university, and if provided by such medical college, school or university with a suitable book for that purpose, a true and correct record of any and all corpses thereafter coming into their possession, charge, custody or control, and of the disposition made of the same, giving the name of such corpses, if known; the dates of death and burial, if known; the names and places of residence, if known, of the relatives of such corpses; the names of the persons by whom such corpses are claimed for interment and the names of the colleges, schools, universities or persons, to whom the same are delivered, and the dates of such deliveries; which said books shall be open to the inspection of the officers and agents of such college, school or university furnishing the same and to the officers and agents of any other medical college, school or university entitled to receive corpses from the same county. If two or more colleges, schools or universities located in any one of said counties are entitled to receive corpses from the same or from said adjoining counties, they shall receive the same in proportion to the number of matriculated students in each college. The professors and teachers in every college, school or university receiving any corpse under this section, shall dispose of the remains thereof, after they have served the purposes of medical, anatomical or surgical science and study, in accordance with the regulations of the local board of health where the college, school or university is situated. Any person neglecting to comply with or violating any provision of this section, shall forfeit and pay a penalty of twenty-five dollars for each and every such noncompliance or violation thereof, and it shall be the duty of the health officer, or person performing his duties, in the places where said medical colleges, schools or universities are situated, whenever he shall have knowledge or information of any non-compliance with, or violation of, any provision, or provisions, of this section, to sue for and recover, in his name of office, the aforesaid penalty, and to pay over the amount so recovered, less the cost and expenses of the action, to the health board of said locality, for its use and benefit.

§ 2. This act shall take effect immediately.

CHAPTER 388

AN ACT to amend the highway law, in relation to the designation of state and county highways.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions two, three, ten and sixteen of section one hundred and twenty of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as last amended by chapter eighteen of the laws of nineteen hundred and twenty-one,¹ and subdivisions thirteen, twenty-two and fifty-seven of section one hundred and twenty-two of such chapter, as last amended by chapter eighteen of the laws of nineteen hundred and twenty-one,² are hereby amended to read, respectively, as follows:

L. 1909,
ch. 20,
§ 120,
subds. 2, 3,
10, 16, as
amended
by L. 1921,
ch. 18;
§ 122,
subds. 13,
22, 57, as
amended
by L. 1921,
ch. 18,
amended.

Route 2. Commencing on Jerome avenue at the dividing line between the city of New York and Westchester county, thence northerly through the city of Yonkers and the villages of Tarrytown and North Tarrytown on highways fifty-three hundred fifty-nine, fifty-two hundred thirty-one, five hundred three, fifty-five hundred seventy-one, thirty-four, fifty-two, fifty-five hundred seventy-one and fifty-three hundred sixty to post road, thence northerly along post road through the village of Briar Cliff Manor on highways fifty-three hundred sixty-one, fifty-three hundred sixty-four and fifty-four hundred eighty-two through the village of Ossining, and on highways fifty-three hundred sixty-four, six hundred fifty-seven and twelve hundred seven, through the village of Croton on Hudson and on highway six hundred fifty-seven and lower South street³ in the village of Peekskill, thence northerly on highways fifty-three hundred sixty-three and fifty-one hundred forty-seven to the dividing line between Westchester and Putnam counties, thence northerly on highways fifty-one hundred forty-seven, fifty-three hundred eighty-seven, fifty-one hundred fifty-six and fifty-one hundred forty-nine to the dividing line between Putnam and Dutchess counties, thence northerly on highway fifty-one hundred fifty to the village of Fishkill, thence northerly through the village of Wappinger Falls on highways fifty-one hundred fifty-four, fifty-five hundred forty-nine, fifty hundred fifty, two hundred twenty-three and fifty-four hundred eighty-nine to the city of Poughkeepsie, thence northerly through

¹ Previously amended by L. 1909, ch. 504; L. 1910, chs. 573, 648-650; L. 1911, chs. 89, 96, 166, 179, 259-261, 320, 356, 395, 472, 531, 570, 614, 616, 660, 662, 716, 747, 751, 752, 784, 807; L. 1912, chs. 51, 57, 157, 179, 183, 473-476, 477, 535, 542; L. 1913, chs. 784, 785; L. 1914, chs. 47, 201, 276, 376; L. 1915, ch. 43; L. 1916, ch. 634; L. 1919, ch. 468.

² Previously amended by L. 1912, ch. 83.

³ Words "lower South street" substituted for words "Welcher avenue."

the villages of Rhinebeck and Red Hook on highways fifty-four hundred eighty-nine, ninety hundred three, four hundred fifty-three, ninety hundred four, fifty-one hundred thirty-five, four hundred thirty-two, fifty hundred ninety-two, five hundred fifty-two, fifty hundred ninety-five and five hundred fifty-two to the dividing line between Dutchess and Columbia counties, thence northerly on highways five hundred eighty-nine, fifty hundred four, fifty hundred seventy-two, fifty hundred seventy-three and fifty-five hundred seventy-four to the city of Hudson, thence northerly on highways fifty-five hundred seventy-four, three hundred forty-one, six hundred forty-nine, fifty-one hundred three and fifty-one hundred four through the village of Kinderhook to route one in the village of Valatie.

Route 3. Commencing at the dividing line between the town of Orangetown, Rockland county, and the state of New Jersey; thence northerly through the eastern portion of Rockland county through the villages of Piermont, South Nyack, Nyack, Highland avenue in ⁴ upper Nyack, Highland avenue, Ward Corner,⁵ Haverstraw and West Haverstraw over the Sparkill and Stony Point viaducts to be constructed and maintained by the commissioners of the Palisades Interstate Park, on piers and abutments and with a roadway, approaches and sidewalks to be constructed and maintained by the commission, on highways twelve hundred ninety-five, fifty-one hundred sixty-five, fifty-three hundred eighty-nine and five hundred ninety-three to the dividing line between Rockland and Orange counties, thence northerly through the villages of Highland Falls and Cornwall on highways fifty-four hundred eighty, fifty-three hundred twenty-eight, fifty-five hundred seventy-three, fifty-four hundred ninety-eight, four hundred fifteen, fifty-five hundred ninety-one, four hundred fifteen and forty-two to the city of Newburgh, thence northerly on highways fifteen hundred thirty-eight, fifty hundred seven and fifty-one hundred seventy-six to the dividing line between Orange and Ulster counties, thence northerly on highways fifty-one hundred seventy-six, fifty-one hundred fourteen, fifty hundred one, two hundred thirty-one, fifty-five hundred eight, three hundred ten, fifty-five hundred ninety-nine and the Kingston bridge over Rondout creek which is to be constructed and maintained by the commission, to the city of Kingston, thence northerly through the village of Saugerties on highways fifty hundred, two hundred twenty-eight, fifty-six hundred one and fifty-one hundred sixty-nine to the dividing line between Ulster and Greene counties, thence northerly through the villages of Catskill, Athens and Cossackie on highways fifty-one hundred sixty-six, fifty hundred twenty-seven, fifty-three hundred sixty-six, fifty-four hundred nine, fifty-three hundred sixty-six, fifty-three hundred sixty-seven, fifty-three hundred sixty-eight, fifty-three hundred sixty-nine, fifty-one hundred ninety-eight and fifty-three hundred seventy to the dividing line between Greene and

⁴ Words "Highland avenue in" new.

⁵ Words "Highland avenue, Ward Corner," new.

Albany counties, thence northerly through the village of Ravena on highways fifty-six hundred fifty-two, one hundred ninety-three, fifty-six hundred forty-three, fifty-four hundred ninety-nine and ninety-one hundred one to the city of Albany.

Route 10. Commencing at the city of Syracuse, thence southerly on highways fifty-three hundred sixty-five, two hundred ninety, fifty-three hundred sixty-five, seventy-six and fifty-five hundred sixteen through the village of Tully to the dividing line between Onondaga and Cortland counties, thence southerly on highways five hundred ninety-five, five hundred ten, fifty hundred fifty-eight and two hundred eight through the village of Homer to the city of Cortland, thence southeasterly on highways three hundred seventy-eight, eight hundred eighty-one and fifteen hundred and on the east bank of the Tioughnioga river and on highway fifty-five hundred ninety-five through the village of Marathon to the dividing line between Cortland and Broome counties, thence southerly on the east bank of the Tioughnioga river and on highway fourteen hundred eighty-six into the village of Whitney Point, thence southeasterly on the east bank of the Tioughnioga river to route eight in the hamlet of Chenango Forks; and also beginning on this route at the McGraw-Marathon road forks, near the city of Cortland, thence easterly through the village of McGrawville on highways three hundred seventy-eight and fifty-four hundred thirty-six to the hamlet of Solon, thence southeasterly on highway fourteen hundred thirty-five and through the hamlets of Gee Brook and Willett to the dividing line between Cortland and Chenango counties, thence southeasterly through the hamlet of Lakeville and on highways fifty-two hundred sixty⁶ and two hundred eighteen and on Birdsall street and Genesee street to route eight in the village of Greene, thence easterly to the hamlet of Coventryville, thence southeasterly on highway eleven hundred seventy-one to route seven in the village of Afton.

Route 16. Commencing at route four in the village of Cuba, thence northeasterly on highways fifty-one hundred seventy-four and fifty hundred twenty-three and through the hamlet of Black Creek to the hamlet of Belfast, thence northerly through the village of Oramel on highways fifty-six hundred fifteen and fifty-five hundred eighteen to the hamlet of Fillmore, thence northeasterly on the west bank of the Genesee river to the dividing line between Allegany and Wyoming counties, thence northerly through the hamlet of Portageville⁷ into the village of Castile, thence northwesterly through the village of Silver Springs, thence northerly through the hamlet of Rock Glen on highways fifty-four hundred-a and fifty-four hundred through the village of Warsaw, thence northeasterly on highways fifty hundred twenty-four, fifty-one hundred thirty-four, fifty-four hundred ten and fifty hundred twenty-four through the village of Wyoming to the dividing line between Wyoming and Genesee counties near

⁶ Formerly "fifty hundred sixty."

⁷ Words "and Letchworth Park" omitted.

the hamlet of Pavilion, thence northerly on highways fifty-five hundred eighty-two and fifty-five hundred thirty-eight to route six in the village of Le Roy.

13. Dutchess county. Hyde Park-East Park; Amenia-Sharon, part one; Fishkill Plains-Poughkeepsie, part one; Winchell-Northeast Center; Rhinecliff-Rhinebeck; Stonehouse-Pawling; Lithgow-Wassaic; Cold Spring-Beacon, part two; Millbrook-Dover Plains.⁸

22. Jefferson county. Jewettville-Dexter; Woodville-Ellisburg; Tremaines Corners-Barnes Corners-Worth Corners; Theresa-Redwood; Adams-Rodman; Evans Mills-Chautties Corners.⁹

57. Westchester county. Grant Corner-Rundall Corner and Bailey Corner-state-line; Mount Kisco corporation line-Katonah; Knollwood-Hawthorne; Larchmont, Weaver street; Yonkers city, Saw Mill River road; White Plains city, Mamaroneck avenue; Tarrytown village, White Plains Road¹⁰ connecting with county highway five hundred three; Highridge-Poundridge-Boutonville; Peekskill-Putnam Valley; Croton Dam-Croton Bridge; Croton-Croton Dam; Paynes Corners-Banksville; Goldens Bridge hamlet connection; Mohansic Lake connection.

§ 122c
added.

§ 2. Such chapter is hereby amended by inserting herein after section one hundred and twenty-two-b, a new section, to be section one hundred and twenty-two-c, to read as follows:

§ 122-c. **Modification of map.** The state commissioner of highways is hereby authorized and directed to modify the map in his office which is a duplicate of the map filed with the secretary of state pursuant to section one hundred and twenty-two-a of the highway law, to conform with any act which amends section one hundred and twenty or one hundred and twenty-two of this chapter, and to consider the highways indicated on such modified map as the only ones eligible for improvement pursuant to this chapter.

§ 122,
subd. 32,
as amended
by L. 1921,
ch. 13,
amended.

§ 3. Subdivision thirty-two of section one hundred and twenty-two of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," such section having been last amended by chapter eighteen of the laws of nineteen hundred and twenty-one,¹¹ is hereby amended to read as follows:

32. Onondaga county. Scott-Borodino, part two; Syracuse-Otisco, part two; North Memphis-Baldwinsville connecting with highway fifteen hundred seven and county road C, five, part two;¹² Amber-Cedarvale-Syracuse; Fabius-Pompey, part two; Tully Center-Cardiff Valley, parts one and three; Half Way connection; Syracuse-Bridgeport crossing.

§ 4. This act shall take effect immediately.

⁸ Words "Millbrook-Dover Plains" new.

⁹ Words "Evans Mills-Chautties Corners" new.

¹⁰ Words "White Plains Road" substituted for word "Benedict avenue."

¹¹ Previously amended by L. 1912, ch. 83.

¹² Words "part two" new.

CHAPTER 389

AN ACT to amend the highway law, in relation to reports and records of accidents, involving personal injury, from the operation of motor vehicles.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section two hundred and ninety of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten and last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:²

L. 1909,
ch. 30,
§ 290,
subd. 3,
as added
by L. 1910,
ch. 374,
and
amended by
L. 1921,
ch. 580,
amended.

3. Punishment for operating motor vehicle while in an intoxicated condition; for going away without stopping after accident and making himself known. Whoever operates a motor vehicle while in an intoxicated condition shall be guilty of a misdemeanor. Any person operating a motor vehicle who, knowing that damage has been caused to a vehicle, due to the culpability of the person operating such motor vehicle, or to accident, leaves the place where the damage occurred, without stopping and giving his name, residence, including street and street number, and license number to the party sustaining the damage, or to a police officer, or in case no police officer is in the vicinity of the place where the damage occurred then reporting the same to the nearest police station, or judicial officer, shall be guilty of a misdemeanor. Any person operating a motor vehicle who, knowing that injury has been caused to a person, due to the culpability of the person operating such motor vehicle, or to accident, leaves the place of said injury or accident, without stopping and giving his name, residence, including street and street number, and license number, to the injured party and also to a police officer, or in case no police officer is in the vicinity of the place of said injury or accident, then reporting the same to the nearest police station or judicial officer, is guilty of a misdemeanor. A conviction of a violation of the foregoing provisions of this subdivision shall be reported forthwith by the trial court or the clerk thereof to the tax commission, which shall make a record of the recommendation of the trial court. A police officer or judicial officer receiving a report of such an accident shall make a memorandum of the facts reported, and of such additional facts relating to the accident as may come to his knowledge, and forthwith deliver the same to a police justice or other magistrate of the city, village or town. Any such justice or magistrate or any

¹ Previously amended by L. 1917, ch. 769; L. 1921, ch. 85.

² Subd. 3 materially amended.

judicial officer to whom such accident may have been reported in the first instance shall keep in his office a record of the facts disclosed by such memorandum or report.

§ 2. This act shall take effect immediately.

CHAPTER 390

AN ACT to amend the judiciary law, in relation to the powers of appellate divisions of the supreme court.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-three of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," is hereby amended to read as follows:

§ 83. Power of appellate division as to calendars and administration of justice.¹ The appellate division of each department may provide by rule for the manner of making up calendars in each county embraced within the department; ² for the classification, for the purposes of trial, of actions placed upon such calendars and ³ for the making up of two or more calendars within such classification; ⁴ for the continuance on such calendars, from term to term, of actions for which notices of trial have been once served and notes of issue once filed, without a second or further serving and filing thereof; and also from time to time may provide rules as it may deem necessary generally to promote the efficient transaction of business and the orderly administration of justice therein.

§ 2. This act shall take effect immediately.

CHAPTER 391

AN ACT to amend the general municipal law, in relation to playgrounds and neighborhood recreation centers in certain municipalities.^{1a}

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections two hundred and forty, two hundred and forty-one and two hundred and forty-two of chapter twenty-

¹ Words "and administration of justice" new.

² Word "and" omitted.

³ Words "may also provide" omitted.

⁴ Remainder of section new.

^{1a} The amendments effected by §§ 1-4 of this act extend its application from cities of the second and third class and villages to counties outside of the city of New York, except Erie county, and to towns.

L. 1909,
ch. 25,
§ 38
amended.

L. 1909,
ch. 29,
§§ 240-242,
as added
by L. 1917,
ch. 215,
amended.

nine of the laws of nineteen hundred and nine, entitled "An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws," as added by chapter two hundred and fifteen of the laws of nineteen hundred and seventeen, are hereby amended to read respectively as follows:

§ 240. **Application of article.** This article shall apply to cities of the second and third class, to any county except Erie outside of the city of New York, and to towns and villages. The term "municipality," as used in this chapter, includes only a city of the second and third class, any county except Erie outside the city of New York, a town and a village.

§ 241. **Dedication or acquisition of land or buildings for playgrounds or neighborhood recreation centers.** The board of estimate and apportionment of a city, or if there be no such board, the common council, board of aldermen or corresponding legislative body, or the governing board of any county outside of the city of New York, or of a town or village, may designate and set apart for use as playgrounds or neighborhood recreation centers any land or building owned by such municipality and not dedicated or devoted to another inconsistent public use; or such municipality may, with the approval of such local authorities and in such manner as may be authorized or provided by law for the acquisition of land for public purposes in such municipality, acquire lands in such municipality for playgrounds or neighborhood recreation centers, or if there be no law authorizing such acquisition, the board of estimate and apportionment of such city, or if there be no such board, the common council, board of aldermen or corresponding legislative body, or the governing board of any such county, town or village, may acquire land for such purpose by gift, private purchase or by condemnation, or may lease lands or buildings in such municipality for temporary use for such purpose.

§ 242. **Administration, equipment and operation.** The authority to establish and maintain playgrounds and neighborhood recreation centers may be vested in the school board, park board, or other existing body or in a recreation commission as the board of estimate and apportionment, common council, board of aldermen or corresponding legislative body, or the governing board of any such county, town or village, shall determine. The local authorities of any such municipality designated to equip, operate and maintain playgrounds and neighborhood recreation centers as authorized by this article, may equip such playgrounds and recreation centers, and the buildings thereon, and may construct, maintain and operate in connection therewith public baths and swimming pools. Such local authorities may, for the purposes of carrying out the object of such playgrounds or recreation centers, employ play leaders, playground directors, supervisors, recreation secretary, superintendent or such other officers or employees as they deem proper.

§ 2. Section two hundred and forty-three of such chapter, as added by chapter two hundred and fifteen of the laws of nine-

§ 242, as
added by
L. 1917,

ch. 215,
and
amended by
L. 1921,
ch. 186,
amended.

teen hundred and seventeen, and last amended by chapter one hundred and eighty-six of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

§ 243. **Recreation commission.** If the board of estimate and apportionment, or if there be no such board, the common council, board of aldermen, or corresponding legislative body, or the governing board of any such county, town or village shall determine that the power to equip, operate and maintain playgrounds and recreation centers shall be exercised by a recreation commission, they may, by resolution, establish in such municipality a recreation commission, which shall possess all the powers and be subject to all the responsibilities of local authorities under this article. Such a commission, if established, shall consist of five persons who are residents of such municipality, to be appointed by the mayor of such city or the governing board of such county, town or village to serve for terms of five years or until their successors are appointed, except that the members of such commission first appointed shall be appointed for such terms that the term of one commissioner shall expire annually thereafter. If pursuant to this section a recreation commission be established in a city, the board or body establishing such commission may, by resolution, provide that the president of the board of education and the president of the park board of such city, or officers having corresponding functions, shall be ex-officio members of the commission except that in a city of the second class, located in a county having a population of not less than two hundred thousand nor more than two hundred and fifty thousand, the mayor may appoint any two residents of the city members of such recreation commission in lieu of the above mentioned ex-officio members. Members of such commission shall serve without pay. Vacancies in such commission occurring otherwise than by expiration of term shall be for the unexpired term and shall be filled in the same manner as original appointments.

§ 244a, as
added by
L. 1920,
ch. 615,
amended.

§ 3. Section two hundred and forty-four-a of such chapter, as added by chapter six hundred and fifteen of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 244-a. **Acceptance of donations.** A recreation commission or other authority in which is vested the power to equip, operate and maintain playgrounds and neighborhood recreation centers pursuant to this article may accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation to be applied principal or income for either temporary or permanent use for playground or recreation purposes, but if the use thereof for such purpose will subject the municipality to expense for improvement, maintenance or renewal, the use of any grant or devise of real estate shall be approved by the board or body establishing such recreation commission or other authority. Money received for such purpose, unless otherwise provided by the terms of the gift or bequest,

² Previously amended by L. 1920, ch. 615.

shall be deposited with the treasurer of the municipality to the account of the recreation commission or other such authority, and the same may be withdrawn and paid out in the same manner as money appropriated for recreation purposes.

§ 4. Sections two hundred and forty-five and two hundred and forty-six of such chapter, as added by chapter two hundred and fifteen of the laws of nineteen hundred and seventeen, are hereby amended to read respectively as follows: § 245,
246, as
added by
L. 1917,
ch. 215,
amended.

§ 245. **Expenses incurred under article.** All expenses incurred under this article coming within the annual appropriation therefor (as provided in section two hundred and forty-six of this article) shall be a charge against the municipality incurring the same, payable from the current funds of such municipality; but the local authorities may provide that the bonds of such municipality may be issued in the manner provided by law for the acquisition of lands or buildings for playgrounds or neighborhood recreation centers, subject, however, to the adoption of a proposition therefor at a municipal election, if the adoption of such a proposition is a prerequisite to the issuance of bonds of such municipality for public purposes generally.

§ 246. **Annual appropriation.** The local authorities of a municipality having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such municipality a sum sufficient to carry out the provisions of this article.

§ 5. Such chapter, as added by chapter two hundred and fifteen of the laws of nineteen hundred and seventeen, is hereby amended by inserting therein, after section two hundred and forty-four-a, a new section, to be section two hundred and forty-four-b, to read as follows: § 244b
added.

§ 244-b. **Joint playgrounds or neighborhood recreation centers.** Any two or more such municipalities may jointly acquire property for and operate and maintain playgrounds or neighborhood recreation centers. Any school board or district shall have power to join with any such municipality in equipping, operating and maintaining playgrounds and neighborhood recreation centers and may appropriate money therefor.

§ 6. This act shall take effect immediately.

CHAPTER 392

AN ACT to amend the penal law, in relation to removing or defacing identification mark on motor vehicles or any other mechanical device.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and thirty-six-a¹ of the penal law is hereby amended to read as follows: L. 1909,
ch. 88,
§ 436a
amended.

¹ As added by L. 1917, ch. 708, and amended by L. 1920, ch. 119.

§ 436-a. Defacing or removing identification marks.²

A person who:

1. Wilfully removes, defaces,³ covers, alters or destroys the manufacturer's serial number or any other distinguishing number or identification mark on any motor vehicle, as defined in section two hundred and eighty-one of the highway law, or on any mechanical device,³ or

2. Knowingly buys, sells, receives,⁴ disposes of, conceals or knowingly has in his possession any motor vehicle, as defined in section two hundred and eighty-one of the highway law, from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealment or misrepresenting the identity of the said motor vehicle, or mechanical device,⁵ is guilty of a felony.⁶

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 393

AN ACT to amend the town law, in relation to employment of clerks by the assessors of the towns in the county of Herkimer.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 63,
§ 125,
as added
by L. 1918,
ch. 163,
and
amended
by L. 1919,
ch. 101,
amended.

Section 1. Section one hundred and twenty-five of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," as added by chapter one hundred and sixty-three of the laws of nineteen hundred and thirteen and last amended by chapter one hundred and one of the laws of nineteen hundred and nineteen¹ is hereby amended to read as follows:

§ 125. Powers of supervisors and assessors in certain towns to employ clerks. In each of the following towns, the supervisor, in his discretion, may employ a clerk at a salary to be fixed by the town board: each town in the county of Suffolk; each town, elsewhere, having a population, as appears by the last federal census, of fifteen thousand or more and where the assessed valuation of real estate is over fifteen million dollars, except that in the county of Westchester such clerks may be employed in towns where the population, as appears by the last federal census, is ten thousand or more or where the assessed valuation of real

² Section heading formerly read: "Defacing identification mark on motor vehicles."

³ Words "or on any mechanical device" new.

⁴ Word "receives" new.

⁵ Words "or mechanical device" new.

⁶ Word "felony" substituted for word "misdemeanor."

¹ Previously amended by L. 1915, ch. 107; L. 1916, ch. 21; L. 1918, ch. 541.

estate is over six million dollars. The assessors of each town having a population, as appears by the last federal census, of fifteen thousand or more and where the assessed valuation of real estate is over fifteen million dollars, may also, in their discretion, employ a clerk at a salary to be fixed by the town board of such town. The assessors in each town of Suffolk county may also, in their discretion, employ clerks, for the purpose of copying the original assessment roll and making such copy or review copies thereof as may be authorized by law, at a salary to be fixed by the town board of such town. ¹ The assessors in each town in Herkimer county, having a population of five thousand or more and adjoining a city having a population of more than ninety thousand, as appears by the last federal census, may also, in their discretion, employ clerks at a salary to be fixed by the town board of such town. The salaries of said clerks shall be paid by the supervisor of said town in equal monthly payments and shall be a town charge and shall be levied and collected in the same manner as other town charges.

§ 2. This act shall take effect immediately.

CHAPTER 394

AN ACT to amend the town law, in relation to park districts in towns within certain counties adjoining cities of the first class.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article seventeen-b of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consolidated laws," ^{§ 349n added to} as added by chapter fifty-four of the laws of nineteen hundred ^{La. 1909,} and sixteen, is hereby amended by adding thereto a new section, ^{ch. 63.} to be known as section three hundred and forty-nine-n, and to read as follows:

§ 349-n. **Town board may alter park districts.** The town board in which a park district has been created and established as in this article provided may, upon application of the board of park commissioners, and after a hearing as hereinafter provided, alter the boundaries of such park district so as to exclude therefrom the portion of such district described in such application of the board of park commissioners. Such town board shall give notice of the time, place and purpose of such hearing by publication in a newspaper published in such town once a week for two successive weeks immediately preceding such hearing. Such hearing shall be held at the time and place specified in such notice, and may from time to time be adjourned by such town board, and at such

¹ Following sentence new.

hearing all persons so desiring shall be heard. If after such hearing the town board shall be satisfied, and shall find and determine that it is for the best interests of the inhabitants of, and also owners of property in, such park district, that the boundaries thereof be altered so as to exclude therefrom the portion thereof described in such application of said board of park commissioners, said town board shall enter such determination and finding upon their minutes, and shall make an order altering the boundaries of such park district so as to exclude therefrom the portion so described in said application above mentioned. Such order shall be filed with the town clerk and recorded in the minute book of such board, and thereupon the territory within the boundaries of said park district as so altered shall be such park district, to the same extent and effect as if the same had been so described when originally created and established, and any bonded indebtedness theretofore created in connection with such park district, and the interest thereon, shall be collected by the town from the property within such park district as so altered.

§ 2. This act shall take effect immediately.

CHAPTER 395

AN ACT to amend the village law, in relation to liability or indebtedness to special districts and collection of taxes to discharge such liability.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended by inserting therein a new section, to be section thirty-four, to read as follows:

§ 34. **Liability to special districts and collection of taxes.** If the territory so incorporated as a village includes within its boundaries part of a special district established by the town for a sewer, water, light, fire, park, health, police or any other special district for municipal purposes the territory so included within the boundaries of the village shall not be relieved from bearing its proportionate share of any liability or indebtedness incurred for such special district purposes while such territory was a part of such special district and until such liability is discharged, or such indebtedness paid the proportionate share to which such territory would be liable if it had not been included in the boundaries of the village shall be levied upon, assessed and collected from such territory by the proper officers of such village in the same manner as if such territory had not been included within the boundaries of the village. All moneys so collected shall be paid over from time to time by the village treasurer

§ 34
added to
L. 1909,
ch. 64.

to the supervisor of the town to discharge such liability. The collector or receiver of taxes of a town and the treasurer of a county shall continue in the execution of his duties in respect to the property included in the boundaries of a village incorporated under the provisions of this act until he shall have collected the taxes authorized or assessed for the year of such incorporation or which have been extended on the town assessment roll and became a lien after such incorporation and pay to the treasurer of the village when collected the taxes extended on the assessment roll against property within the village for highway, health, water, light, fire, park, sewer, police or other special district purposes.

§ 2. This act shall take effect immediately.

CHAPTER 396

AN ACT to provide means for the support of government.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. There shall be imposed for the fiscal year beginning July first, nineteen hundred and twenty-two, taxes aggregating one and twenty-nine hundred and fifteen ten-thousandths mills on each dollar of real and personal property in this state subject to taxation, for the purposes hereinafter mentioned, which taxes shall be assessed, levied and collected by the annual assessment and collection of taxes of that year in the manner prescribed by law, and shall be paid by the several county treasurers into the treasury of this state to the credit of the general fund, to be held by the treasurer for the purposes specified as follows:

For services relating to the state debt including the annual contributions to sinking funds for the amortization of the principal of debt, the redemption of serial bonds and the interest on debt, seventy-nine hundred and fifteen ten-thousandths of a mill.

For the support of common schools, including the payment of district and teachers' quotas, academic quotas, nonresident academic tuition, and aid in the payment of salaries of teachers in public schools of the state, to be apportioned as provided by chapter six hundred and eighty of the laws of nineteen hundred and twenty, one-half of a mill.

§ 2. This act shall take effect immediately.

Direct
state tax
levied.

Purposes.
State
debt.

Support
of common
schools.

CHAPTER 397

AN ACT making appropriations for the support of government in addition to those provided by chapter one hundred and six of the laws of nineteen hundred and twenty-two, and including provisions relating to certain appropriations made by such chapter.

Became a law April 1, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

PART I

Appropriations
for fiscal
year.

Section 1. The several amounts named in this section, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated and authorized to be paid as hereinafter provided, to the respective public officers and for the several purposes specified, which amounts shall be available for the year beginning on the first day of July, nineteen hundred and twenty-two, namely:

EXECUTIVE

EXECUTIVE DEPARTMENT

MAINTENANCE AND OPERATION

Contingencies

Expenses of lunacy commission acting in capital cases.....	\$500 00
--	----------

ADMINISTRATIVE

COMPTROLLER

PERSONAL SERVICE

Auditor of printing.....	4,000 00
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ATTORNEY-GENERAL

PERSONAL SERVICE

Labor bureau

For additional personal service, to enable the attorney-general to reorganize the bureau and to include such increases in items segregated in chapter one hundred and six of the laws of nineteen hundred and twenty-two as may be necessary, the new schedule to be approved by the governor, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.....	6,000 00
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CIVIL SERVICE COMMISSION

PERSONAL SERVICE

Clerk (in addition to that made by chapter 106 of the laws of 1922)	360 00
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JUDICIAL

COURT OF APPEALS

PERSONAL SERVICE

Telephone operator (in addition to that made by chapter 106 of the laws of 1922), 2 at \$140.....	\$280 00
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SUPREME COURT

Law libraries

Newburgh	400 00
Plattsburg	600 00

JUDICIAL
STATE REPORTER
PERSONAL SERVICE

Stenographer or clerk (in addition to that made by chapter 106 of the laws of 1922).....	180 00
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REGULATIVE
DEPARTMENT OF LABOR
PERSONAL SERVICE

Bureau of workmen's compensation	
Referee	4,000 00
New York office	
Assistant claim examiner.....	1,200 00
Clerk or stenographer, 3 at \$900.....	2,700 00
Hearing stenographer, 2 at \$1,500.....	3,000 00
Stenographer	1,200 00
Rochester office	
Assistant examiner of claims.....	1,200 00
Hearing stenographer	1,500 00
Stenographer	900 00
Syracuse office	
Hearing stenographer	1,350 00
Stenographer, 3 at \$960.....	2,880 00
Clerk	900 00
Albany office	
Assistant examiner	1,200 00
Clerk or stenographer.....	1,000 00
Buffalo office	
Assistant examiner	1,200 00
Clerk or stenographer.....	960 00

TRANSIT COMMISSION
PERSONAL SERVICE

Counsel (in addition to the appropriation made by chapter 106, laws of 1922)	5,000 00
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MOTION PICTURE COMMISSION
PERSONAL SERVICE

Deputy commissioner (in addition to that made by chapter 106 of the laws of 1922)	500 00
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MAINTENANCE AND OPERATION

Printing and advertising.....	2,500 00
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EDUCATIONAL
NEW YORK STATE COMMISSION FOR THE BLIND
MAINTENANCE AND OPERATION

Rent (in addition to that made by chapter 106 of the laws of 1922)	3,238 50
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CATHOLIC INSTITUTE FOR THE BLIND, BOROUGH OF BRONX	
For the support and instruction of two pupils, at \$450 each.....	900 00

NAUTICAL SCHOOL

MAINTENANCE AND OPERATION

Rent (in addition to that made by chapter 106 of the laws of 1922)	2,316 00
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EDUCATIONAL**NEW YORK STATE DRILL HALL AT CORNELL UNIVERSITY****PERSONAL SERVICE**

Caretaker	780 00
Janitor, 3 at \$720.....	2,160 00

MAINTENANCE AND OPERATION

Fuel, light, power and water.....	8,000 00
Repairs	1,000 00

AGRICULTURAL**NEW YORK STATE VETERINARY COLLEGE AT CORNELL UNIVERSITY****PERSONAL SERVICE**

Appropriation made by chapter 106, part I, laws of 1922, for "Professors, assistant professors or instructors, at not to exceed \$3,500 each for professors, \$2,400 each for assistant professors, and \$1,800 each for instructors" is hereby made available for — "Professors, assistant professors or instructors, at not to exceed \$3,500 each for professors, \$3,250 each for assistant professors, and \$2,250 each for instructors."

Additional appropriation to that made by chapter 106, part I, laws of 1922, for "Professors, assistant professors or instructors" 2,000 00

PENAL**SING SING PRISON****PERSONAL SERVICE**

Guard, 10 at \$1,200.....	12,000 00
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CURATIVE**STATE HOSPITAL COMMISSION****PERSONAL SERVICE**

The appropriation made by chapter 106 of the Laws of 1922, for "transportation agent, \$1,300.00," is hereby made available for "transportation agent or stenographer."

MAINTENANCE AND OPERATION

Rent, in addition to that made by chapter 106 of the laws of 1922	4,700 00
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KING'S PARK STATE HOSPITAL

Of the amount of \$1,482,018 appropriated by chapter 106, Laws of 1922, an additional amount of \$9,684 is hereby made available for personal service.

CHARITABLE**FISCAL SUPERVISOR OF STATE CHARITIES****PERSONAL SERVICE**

The appropriation made by chapter 106 of the laws of 1922 — "Auditor of accounts, \$2,500" is hereby made available for "chief inspector."

INSTITUTION FOR DEFECTIVE DELINQUENTS, NAPANOCH

For expenses of maintenance and operation in addition to that appropriated by chapter 106 of the laws of 1922, of which not more than \$3,600 may be expended for personal service..... 3,600 00

LETCHWORTH VILLAGE, THIELLS

For expenses of maintenance and operation in addition to that appropriated by chapter 106 of the laws of 1922, of which not more than \$8,500 may be expended for personal service..... 8,500 00

**PROTECTIVE
DEPARTMENT OF PUBLIC BUILDINGS
PERSONAL SERVICE**

The appropriation made by chapter 106, laws of 1922 "plumber and gasfitter—2 at \$2,003.20, \$4,006.40," is hereby made available for "plumber and gasfitter, 2 at \$2,003.20" or plumber and gasfitter, \$2,003.20, and chief plumber and gasfitter, \$2,003.20.

The appropriation made by chapter 106, laws of 1922, "machinist, \$1,702.72," is hereby made available for "machinist or electrician."

Foreman of laborers, in addition to the amount appropriated by chapter 106, laws of 1922, 2 at \$100	200 00
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**CONSERVATION COMMISSION
PERSONAL SERVICE**

Deputy commissioner (in addition to the appropriation made by chapter 106, laws of 1922)	1,000 00
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**DEPARTMENT OF STATE POLICE
MAINTENANCE AND OPERATION**

Rent	1,000 00
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**NEW YORK STATE MONUMENTS COMMISSION
MAINTENANCE AND OPERATION**

Rent, in addition to that made by chapter 106 of the laws of 1922	656 00
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**SIR WILLIAM JOHNSON MANSION, JOHNSTOWN
MAINTENANCE AND OPERATION**

For expenses of maintenance and operation in addition to that appropriated by chapter 106 of the laws of 1922	300 00
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**LAKE GEORGE BATTLEGROUND PARK
MAINTENANCE AND OPERATION**

For expenses of maintenance and operation in addition to that appropriated by chapter 106, of the laws of 1922	680 00
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**CONSTRUCTIVE
DEPARTMENT OF ARCHITECTURE
MAINTENANCE AND OPERATION**

Rent, additional to that made by chapter 106 of the laws of 1922	2,300 00
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**DEPARTMENT OF HIGHWAYS
MAINTENANCE AND OPERATION**

Printing and advertising to comply with the provisions of sections 20 and 108 of the highway law	2,500 00
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CANAL FUND

**SUPERINTENDENT OF PUBLIC WORKS
PERSONAL SERVICE**

The appropriation made by chapter 106, of the laws of 1922 for "assistant to deputy" is hereby made available for "assistant deputy."

MAINTENANCE AND OPERATION

Of the amount of \$418,500 appropriated by chapter 106, laws of 1922, for maintenance and operation of department of public works, \$3,000 is hereby made available for traveling expenses for the superintendent of public works, in lieu of all expenses, and also permission is hereby given for the purchase or exchange of automobile or automobiles.

PART II

Sums im-
mediately
available.

Audit.

§ 2. The several sums specified in this section, or so much thereof as shall be sufficient to accomplish, in full, the purposes designated by the appropriation, shall be immediately available for payment when this act becomes a law and shall be paid by the treasurer on the warrant of the comptroller, to the persons and for the purposes indicated in this act, which several amounts are hereby appropriated out of any moneys in the treasury not otherwise appropriated. No warrant shall be issued except in the case of salaries until the amounts claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same, upon vouchers prescribed as required by section twelve of the state finance law.

EXECUTIVE**EXECUTIVE DEPARTMENT****MAINTENANCE AND OPERATION****Printing and advertising:**

Public Papers of Governor Glynn and Governor Smith..... 4,500 00

Contingencies:

Expenses of lunacy commission acting in capital cases..... 250 00

ADMINISTRATIVE**STATE COMPTROLLER****Maintenance undistributed:**

For personal services and expenses to carry out the provisions
of chapter 649 of the laws of 1921..... 10,000 00

ATTORNEY-GENERAL**MAINTENANCE AND OPERATION**

For expenses of the litigation testing the constitutionality of the
act constituting the Transit Commission of the city of New
York..... 15,000 00

For expenses in connection with title searches..... 3,000 00

For services and expenses in making consolidated index of attor-
ney-general's opinions 1,600 00

LEGISLATIVE**THE SENATE**

For payment to John J. Dunnigan, additional appropriation for
expenses in connection with contest, Dunnigan vs. Taylor..... 1,000 00

THE ASSEMBLY**PERSONAL SERVICE**

Assemblymen 550 00

For payment to Richard H. Templeton for services and expenses
as counsel to judiciary committee of the assembly, in contests
of Claessens vs. Felenstein and Brown vs. Alexander..... 2,000 00

For payment to George A. Green for services and expenses as
counsel to Edmund H. Alexander in contest of William H.
Brown vs. Alexander for seat in the assembly..... 1,000 00

For payment to Morris Hillquit for services and expenses as
counsel for August Claessens in contest of Claessens vs. Mur-
ray Felenstein for seat in the assembly..... 1,000 00

SENATE AND ASSEMBLY, JOINTLY

Printing and advertising — printing senate and assembly bills.. 20,000 00

LEGISLATIVE**NEW YORK CITY CHARTER COMMISSION****Printing and advertising:**

Digest of independent and collateral statutes affecting in any way the city of New York, pursuant to chapter 530 of the laws of 1914.....	5,500 00
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JUDICIAL**JUDICIARY CONSTITUTIONAL CONVENTION**

Additional appropriation for expenses of maintenance and operation, including personal service.....	1,700 00
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REGULATIVE**TRANSIT COMMISSION**

Printing and advertising departmental report.....	4,500 00
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CHILD WELFARE COMMISSION

Expenses of maintenance and operation, including personal service.....	7,500 00
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TAX DEPARTMENT**MAINTENANCE AND OPERATION**

For payment to estate of Wilfred Earl Youker, for his traveling expenses while in the employ of the state in the Income Tax Bureau, prior to July 1, 1921.....	247 69
For refund to the estate of Mary E. Quinn for inheritance tax erroneously paid in year 1919.....	400 00
For refund to the estate of Caroline C. Grimm, for inheritance tax erroneously paid in year 1918.....	441 88
For payment to the estate of Israel Isaacs moneys erroneously paid into the state treasury as inheritance tax.....	2,363 71

DEPARTMENT NARCOTIC DRUG CONTROL**MAINTENANCE AND OPERATION**

For payment to the Manhattan Storage and Warehouse Company, for storage and other charges connected therewith.....	293 00
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STATE ATHLETIC COMMISSION**PACKY O'GATTY**

For payment to Packy O'Gatty for moneys retained from contest held by Pioneer Sporting Club, February 14, 1921.....	1,252 50
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EDUCATIONAL**DEPARTMENT OF EDUCATION****PERSONAL SERVICE**

Temporary services.....	1,000 00
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MAINTENANCE AND OPERATION

Fuel, light, power and water (Indian schools).....	500 00
Traveling expenses, outside of the state, prior to July 1, 1921....	256 36

NEW YORK STATE COMMISSION FOR THE BLIND**MAINTENANCE AND OPERATION**

Rent.....	539 76
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CATHOLIC INSTITUTE FOR THE BLIND, BOROUGH OF BRONX

For the support and instruction of two pupils at \$450 each.....	900 00
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**EDUCATIONAL
NAUTICAL SCHOOL
MAINTENANCE AND OPERATION**

Rent 386 00

**AGRICULTURAL
SCHOOL OF AGRICULTURE, MORRISVILLE
H. D. HARTER**

For payment to H. D. Harter, an instructor of the School of Agriculture, Morrisville, for the difference in pay as soldier and the pay attaching to such a position as instructor while he was in the active military service of the state and United States during the world war 625 20

**DEFENSIVE
ADJUTANT-GENERAL'S OFFICE**

Appropriation made by chapter 106, part 1, of the laws of 1922, for:

"Preparation and presentation of claims of the state of New York against the federal government growing out of and incident to the calls of the President for troops for Mexican border service in 1916 and growing out of and incident to the war with Germany, including personal service, travel, travel outside of state and other expenses," is hereby made immediately available.

**PENAL
BOARD OF PAROLE
MAINTENANCE AND OPERATION**

Traveling expenses 750 00

**SING SING PRISON
MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921 125 00

COUNTY OF MERRIMAC, STATE OF NEW HAMPSHIRE

For payment of expenses of the county of Merrimac, N. H., including rewards, in connection with the capture of two prisoners escaped from Sing Sing Prison prior to July 1, 1921 798 00

MATTEAWAN STATE HOSPITAL

PURCHASE OF CATTLE

For the purchase of cows to replace those slaughtered under the direction of the commissioner of agriculture 3,925 50

**CURATIVE
STATE HOSPITAL COMMISSION
PERSONAL SERVICE**

Bureau of Deportation:
Deputy Medical Examiner 1,166 67
Transportation agent 433 33
Stenographer 440 00

MAINTENANCE AND OPERATION

Rent 783 34

**KINGS PARK STATE HOSPITAL
MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921 5,109 18

**CHARITABLE
STATE BOARD OF CHARITIES
MAINTENANCE AND OPERATION**

Equipment, supplies and materials..... 1,500 00

**WESTERN HOUSE OF REFUGE FOR WOMEN, ALBION
MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921..... 67 18

**NEW YORK STATE SCHOOL FOR THE BLIND, BATAVIA
PERSONAL SERVICE**

Special services 1,000 00

NEW YORK STATE SOLDIERS' AND SAILORS' HOME, BATH

To reimburse members of the board of managers for payment to attorney for the board in an investigation ordered by former Governor Smith 1,825 00

**NEW YORK STATE REFORMATORY, ELMIRA
PERSONAL SERVICE**

For payment to the guards, storekeepers, trade instructors and bookkeepers of the New York State Reformatory at Elmira and the then Eastern New York Reformatory at Napanoch, back salaries in accordance with the decision of the court of claims in the case of William W. Dibble against the state of New York 26,776 79

**STATE AGRICULTURAL AND INDUSTRIAL SCHOOL, INDUSTRY
MAINTENANCE AND OPERATION**

Fuel, light, power and water, prior to July 1, 1921..... 1,300 44
Office expenses, prior to July 1, 1921..... 25 75

**NEW YORK STATE WOMAN'S RELIEF CORPS HOME, OXFORD
MAINTENANCE AND OPERATION**

Farm and garden:
For the purchase of live stock..... 1,200 00
Fixed charges and contributions, pensions..... 1,730 00

**PROTECTIVE
TRUSTEES OF PUBLIC BUILDINGS
MAINTENANCE AND OPERATION**

For payment to city of New York for lease of port warden's office in hall of records..... 1,666 67
Undistributed:
Moving departments, etc., from one office to another..... 1,000 00

**CONSERVATION COMMISSION
PERSONAL SERVICE**

The appropriation of \$8,500.00 made by chapter 106, part I, of the laws of 1922, for "personal service in fire protection" is hereby made immediately available.

MILES S. B. KNIGHTS

For payment to Miles S. B. Knights, his salary as game protector for the county of Niagara from July 1, 1921, upon which date he was erroneously suspended from the service of the state by the state conservation commissioner, to March 1, 1922, upon which date, pursuant to a writ of mandamus, he was reinstated to the office from which he had been suspended, the salary that he would have received as game protector for Niagara county during said period of suspension..... 933 32

PROTECTIVE**CONSERVATION COMMISSION — Continued**

For payment to Miles S. B. Knights for legal services and disbursements incurred in said mandamus proceedings in the supreme court of the state of New York and in the appellate division, third department, in procuring a final order and writ of mandamus, directing his reinstatement to the position aforesaid	500 00
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LAND OFFICE**MAINTENANCE AND OPERATION**

Contingencies	250 00
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NEW YORK MONUMENTS COMMISSION**MAINTENANCE AND OPERATION**

Rent	109 33
The appropriation of \$8,000 made by chapter 106, part I, of the laws of 1922, under contingencies "for dedication in the fall of 1922 of the General Barlow monument" is hereby immediately available.	

ASSESSMENTS FOR LOCAL IMPROVEMENTS

For payment to the city of Lockport, for assessments against state property for local improvements, notwithstanding failure to comply with the provisions of any other law	4,410 81
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CONSTRUCTIVE**DEPARTMENT OF ARCHITECTURE****MAINTENANCE AND OPERATION**

Rent	383 35
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DEPARTMENT OF HIGHWAYS**MAINTENANCE AND OPERATION**

Contingencies, witness fees, prior to July 1, 1921	114 83
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CENTRAL GARAGE, PHILADELPHIA, N. Y.

For payment, including interest, to Central Garage of Philadelphia, N. Y., for material and service rendered in 1920, check in payment for which was sent in error to the Central Garage, Philadelphia, Pa., which concern went into bankruptcy before the error was discovered	45 46
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F. D. DUNBAR

For payment to F. D. Dunbar, Van Etten, N. Y., in settling his claim in reference to drainage agreement on highway No. 8010	400 00
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THERON M. RIPLEY

For payment to Theron M. Ripley, division engineer in the highway department for expenses incurred by him in the mandamus proceedings tried in the supreme court and appellate division, who rendered a decision in favor of said Theron M. Ripley and directed his reinstatement	1,225 88
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GENERAL**INSURANCE DEPARTMENT****MAINTENANCE AND OPERATION**

Contingencies:	
For contribution to Pennsylvania insurance department for expert to be employed by special committee of the national convention of insurance commissioners	100 00

**CANAL FUND
COURT OF CLAIMS**

JUDGMENTS

For the payment of judgments of the court of claims on account of the canals, with interest, as provided by law.....	35,000 00
For the payment of judgments of the court of claims on account of the construction of barge canal terminals, with interest, as provided by law.....	400,000 00

CANAL BOARD

SETTLEMENT OF CLAIMS

For the settlement and adjustment by the canal board of claims and demands, pursuant to chapter two hundred and seventy-two of the laws of nineteen hundred and twenty.....	335,000 00
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PART III.

CONSTRUCTION AND REPAIRS

§ 3. The following sums, or so much thereof as may be necessary, are hereby severally appropriated out of any moneys in the treasury not otherwise appropriated, to the persons and for the purposes hereinafter set forth for construction, improvements, repairs and equipment. Warrants are not to be issued except in the case of salaries until the sums claimed shall have been audited and allowed by the comptroller, who is hereby authorized to determine the same upon vouchers presented as required by section twelve of the finance law.

EDUCATIONAL

NEW YORK STATE COLLEGE FOR TEACHERS

For completing the purchase of lands adjoining the site of the New York State College for Teachers, as authorized by chapter 898 of the laws of 1920.....	\$65,000 00
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AGRICULTURAL

NEW YORK STATE VETERINARY COLLEGE, CORNELL UNIVERSITY

Additional appropriation to construct the south wing of James Law Hall, balance of appropriation, if any, may be used for equipment for said building.....	17,000 00
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PENAL

GREAT MEADOW PRISON

Reconstruction or replacement of cottage destroyed by fire.....	4,000 00
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SING SING PRISON

Installing water pipe.....	18,000 00
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CURATIVE

KINGS PARK STATE HOSPITAL

For furniture and equipment for new building including dining and serving room equipment.....	53,000 00
For furnishing and laying linoleum for new building.....	25,000 00

PROTECTIVE

BENNINGTON BATTLEFIELD

For repairs and alterations to buildings, fences etc.....	1,000 00
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CONSTRUCTIVE**DEPARTMENT OF HIGHWAYS**

For completing the work of raising the grade of the river road between Three River Point and Schroepfel's bridge, Onondaga county	5,000 00
For the construction, in the Montezuma marshes, of a bridge to dispose of the overflow waters from the barge canal in flood times, work to be done by the highway department under the direction of the commissioner of highways.....	17,000 00

PART IV

Appropriation.

§ 4. The following sums, being the amounts heretofore assessed or to be refunded pursuant to law, are hereby appropriated for the objects and purposes specified herein, as follows:

JUDICIAL**STENOGRAPHERS AND COURT EXPENSES****REFUND****SUPREME COURT**

For salaries and expenses of judicial officers and employees for the year beginning July 1, 1922:

EIGHTH DISTRICT

Confidential clerk	\$1,800 00
For deficiencies in appropriations for the year ending June 30, 1922, the following amount is hereby appropriated:	

EIGHTH DISTRICT

Confidential clerk	600 00
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PART V

Reappropriations.

§ 5. The following sums, or so much thereof as may be necessary, being the unexpended balances of former appropriations, are hereby reappropriated and made immediately available for the same purposes as the former appropriations:

JUDICIAL**SUPREME COURT****LAW LIBRARY, PLATTSBURGH**

By chapter 888 of the Laws of 1920 for:

Law library, etc. (re. \$235.95).

EDUCATIONAL**EDUCATION DEPARTMENT**

By chapter 176 of the Laws of 1921, for:

Lectures and instructors for Americanization work for teachers in training institution (re. \$5,000.00).

PERRY'S VICTORY CENTENNIAL COMMISSION

By chapter 176, part 5, of the Laws of 1921 (re. \$1,609.39).

CURATIVE**HOSPITAL DEVELOPMENT COMMISSION**

By chapter 582 of the Laws of 1920, for:

Continuing development of Letchworth Village (re. \$2,415.46).

PROTECTIVE

NEW YORK MONUMENTS COMMISSION

By chapter 582 of the Laws of 1920, for:

Dedication of monument, Antietam battlefield (re. \$1,913.34).

STATE FOREST PRESERVE FUND

By chapter 176, part 5, of the Laws of 1921, for:

Forest preserve purposes (re. \$171,065.68).

§ 6. The moneys appropriated by this act, except as otherwise provided by sections two and five, shall be available only to pay liabilities incurred within the year beginning July first, nineteen hundred and twenty-two, and ending June thirtieth, nineteen hundred and twenty-three, except for construction or permanent betterments and for repairs contained in part three of this act. All former appropriations from the general fund and the canal maintenance fund and the various acts therefor, except appropriations for construction work and permanent betterments and appropriations made by the legislature of nineteen hundred and twenty-two, shall cease to have force or effect after June thirtieth, nineteen hundred and twenty-two, other than for the payment of liabilities incurred on or before that date.

Moneys available for what liabilities; former appropriations.

§ 7. The several amounts herein appropriated shall be deemed to be only for so much thereof as shall be sufficient to accomplish in full the purposes designated by the appropriations and shall be paid by the treasurer from the respective sums as specified, pursuant to the requirements of the state finance law, and it shall be the duty of the treasurer to report annually to the legislature the detail of the several expenditures.

Amounts appropriated to be paid pursuant to state finance law.

§ 8. The salary or compensation of any officer or employee, when not prescribed by law, for which an appropriation is made by this act, may be fixed by the department, official or officials, appointing such officer or employing such employees at a less but not at a greater sum than the amount herein appropriated for the salary or compensation of such officer or employee; and when any appropriation made by this act is for compensation at a per diem rate for a stated number of days, the department, official or officials employing such employees shall have the authority to employ in the position the number of employees for whom compensation is provided in the appropriation, calculating one employee for each three hundred days, the provisions of any general or special statute to the contrary notwithstanding. No appropriation herein contained shall be available for the salary or compensation of any regular officer or employee whose employment or office is not herein specified unless his appointment or employment is expressly authorized; and except as otherwise herein expressly provided, the appropriations made in this act for traveling expenses of officers or employees are for actual and necessary expenses only, in the performance of official duties, and to be paid upon proper proof thereof, as required by section twelve of the state finance law, and no other or further fixed allowance for expenses shall be granted or paid, anything in any other statute to the contrary notwithstanding. An appropriation by this act which is applicable to the payment of traveling or hotel expenses of an officer or employee shall not be expended for traveling or hotel expenses outside of the state unless expressly authorized or provided by this act. Any appropriations made by this act for salary, compensation or expenses shall be the salary, compensation or expenses for one year of the officer, employee, office, board, department, commission or bureau for whom the same is appropriated, notwithstanding existing provisions of any other statute fixing the annual salary, compensation or expenses of such officer or employee or the expenses of such officer, board, department, commission or bureau at a different amount, except that this provision shall not repeal or affect any other appropriation act, passed in the year nineteen hundred and twenty-two, appropriating money to pay, during such year or the fiscal year beginning July first, nineteen hundred and twenty-two, the amount of an increase in the salary, compensation or expenses of any such officer or employee made by a law enacted in such year. Not more than sixty per centum of the amount appropriated in part I of this act and in part I of chapter 106 of the laws

Compensation of officer or employee, when not prescribed by law, how determined.

Employment to be authorized.

Traveling expenses.

Appropriations for salaries and expenses to be for one year.

Limitation of expenditure.

tures for maintenance and operation prior to Jan. 1, 1922.

Expenditure of appropriation for construction, for personal service.

Traveling expenses of managers, trustees and officers of state institutions.

Definitions of classification of expense.

of 1922¹ for any purpose of maintenance and operation shall be expended or obligated prior to January first, nineteen hundred and twenty-three, without the approval of the governor, the chairman of the senate finance committee and the chairman of the ways and means committee of the assembly.

§ 9. No part of any appropriation made by this act for construction except for highways shall be expended for personal service except on the approval of the board of estimate and control. This provision may be complied with by the filing by it with the comptroller and the civil service commission of a list of the positions so approved and the time for which any person may be employed in such position. This provision, however, shall not apply to personal service employed by a contractor or by an institution on construction work done under special fund estimate.

§ 10. A manager, trustee or officer of any state charitable or other institution receiving moneys under this act from the state treasury for maintenance and support shall be entitled to actual and necessary traveling expenses when attending meetings of the board at the office of the institution or in the performance of other official duties undertaken pursuant to a resolution of the board of managers of which he is a member and with the approval of the fiscal supervisor of state charities or hospital commission.

§ 11. The comptroller shall forthwith prepare and publish definitions of the classification of expense by titles employed in this act, defining the purposes for which moneys appropriated under each title may be expended. The comptroller shall have the power to amend such definitions from time to time as in his judgment becomes necessary for the proper conduct of the fiscal affairs of the state. The definitions, as published by the comptroller, and as amended, shall govern expenditures from these appropriations and the audit of claim and accounts by the comptroller where said classifications are used in this act.

§ 12. This act shall take effect immediately.

CHAPTER 398

AN ACT to amend the village law, in relation to the laying of water supply pipes.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 64,
§ 227
amended.

Section 1. Section two hundred and twenty-seven of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended to read as follows:

§ 227. **Connections with mains.** Supply pipes connecting with mains and used by private owners or occupants shall be laid and kept in repair at their expense. Such pipes can only be connected with the mains by the permission and under the direction of the board of water commissioners. A member of the board or its authorized agent may at any time enter a building or upon premises where water is used from supply pipes, and make necessary examinations.

²The board of water commissioners shall cause a notice to be published in the official newspaper of the village and in all other news-

¹ See foot note L. 1922, ch. 106, p. 399, ante.

² Remainder of section new.

papers published therein requiring the owners or occupants of any and all property fronting or abutting on any street or portion thereof in or upon which any public water main or distributing pipe is about to be laid or is being laid or has been laid by the said board to make and lay connection pipes to and from the water mains or distributing pipes in said street or any portion thereof in front of each separate piece of property and where directed by said board, within such time and in such manner and under such inspection as said board shall prescribe, and whenever any such owner or occupant shall have made default in making such connections with said water mains or distributing pipes opposite the lands and premises owned or occupied by him as directed in and required by said printed notice therefor in the manner and within the time specified, the said board shall have power and authority to so make, extend and complete the same to the property line of the lands and premises so owned or occupied opposite thereto and in front thereof, and to connect the same with any existing connecting pipes in front thereof, and the actual expense thereof, including all labor done and materials used in doing and completing the same shall be assessed by the trustees of the village upon each separate piece of property opposite which the same shall be done and completed and shall be a lien and liens on said premises and lots of land respectively, and the same shall be collected in the same manner as other local assessments or assessments for local improvements as provided by the special charter of the village or the general village laws of the state as the case may be, and when so collected the amount thereof shall be paid into the water fund of the village.

§ 2. This act shall take effect immediately.

CHAPTER 399

AN ACT to amend chapter one hundred and seventy-eight of the laws of nineteen hundred and nineteen, entitled "An act to provide for the acquisition of lands and the construction of a tunnel or tunnels jointly with the state of New Jersey, for vehicular and pedestrian traffic under the Hudson river and between the states of New York and New Jersey, and making an appropriation therefor," as amended by chapter seven hundred and eighty-five of the laws of nineteen hundred and twenty, in relation to establishment of funds for the payment for lands acquired for the construction of the tunnel or tunnels, the renting and management of real property and authorizing the New York state bridge and tunnel commission to acquire lands from municipalities.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter one hundred and seventy-eight of the laws of nineteen hundred and nineteen, entitled 'An act to provide for the acquisition of lands and the construction of a tunnel or

§§ 5b-5d
added to
L. 1919,
ch. 178.

tunnels jointly with the state of New Jersey, for vehicular and pedestrian traffic under the Hudson river and between the states of New York and New Jersey, and making an appropriation therefor," as amended by chapter seven hundred and eighty-five of the laws of nineteen hundred and twenty, is hereby amended by inserting therein new sections, to follow section five-a, to be sections five-b, five-c and five-d, respectively, to read as follows:

§ 5-b. Establishment of joint funds for the payment of real property. Upon the request of the New York state bridge and tunnel commission, the comptroller and the treasurer shall set aside out of moneys appropriated for the use of the commission, a fund for the payment of compensation to the owners of the lands, structures, lands under water and other interests appropriated by the state as hereinbefore provided. Upon the request of the commission, the treasurer shall further receive any moneys contributed by the state of New Jersey for the same purpose. The moneys so set apart and contributed shall be held by the treasurer in a separate fund to be known as "the New York state bridge and tunnel commission real estate fund," and all warrants and judgments for the payment of compensation to the owners of lands, structures, lands under water and other interests appropriated by the state as herein before provided, shall be paid out of the aforesaid fund, which is hereby appropriated for such purpose. The establishment of such fund shall be deemed a compliance with the provisions of section five of this act to the extent that such fund is sufficient to pay the amount of the appraisals therein referred to and a reasonable amount in addition to cover contingencies. If after due compensation shall have been made to the owners of all lands, structures, lands under water and other interests in land appropriated by the state as aforesaid, there shall remain in the said real estate fund any unexpended balance, a share of such balance in proportion to its contribution to such fund shall on the warrant of the comptroller issued upon the certificate of the commission, be paid by the treasurer to the proper authorities of the state of New Jersey. The treasurer is hereby further authorized and directed to pay moneys to the proper authorities of the state of New Jersey on the warrant of the comptroller, and the comptroller is hereby authorized and directed to issue his warrant upon the certificate of the chairman of the commission, for such sums as the commission may deem necessary for the purpose of establishing a fund in the state of New Jersey in order to make compensation to the owners of lands, structures, lands under water and other interests appropriated within the state of New Jersey for the purpose of the construction of the aforesaid tunnel or tunnels.

§ 5-c. Renting and management of real property pending construction. The commission is hereby authorized and empowered in its discretion to rent any lands, structures, lands under water and other interests appropriated by the state as hereinbefore provided, on such terms as it deems proper, until the same shall be actually required to be used for the construction of the tunnel

or tunnels. The commission may further employ a real estate agent for the purpose of collecting the rents of such property, making necessary repairs and taking care of the aforesaid property. Such agent shall furnish a bond to the people of the state of New York in the form and in an amount to be approved by the comptroller for the faithful performance of his duties as such. Such agent shall deposit all moneys collected by him as aforesaid, in a separate trust account to be known as the "New York state bridge and tunnel commission rental fund" in a depository to be approved by the comptroller and shall pay upon the approval of the commission and audit of the comptroller the cost of maintenance and repairs of the aforesaid property out of the said account. Such agent shall on the first day of each month render to the comptroller a full, complete and verified statement of all receipts and expenditures during the preceding month, specifying the items thereof and accompanied by the necessary vouchers of expenditures. Such agent shall every three months pay to the state treasurer one-half of the balance of moneys held by him and the remaining one-half to the proper authorities of the state of New Jersey.

§ 5-d. **Acquisition of lands from municipalities.** The commission is hereby authorized and empowered to acquire from any municipality, either by the method prescribed in sections three, four and five of this act, or by agreement with such municipality for such consideration at it may deem wise, any lands, structures, rights of way, franchises, easements and interests in land or structures, including lands under water and riparian rights, which it may deem necessary for the construction, maintenance or operation of the tunnel or tunnels; including such lands, structures or interests therein as have already been devoted to a public use.

§ 2. This act shall take effect immediately.

CHAPTER 400

AN ACT to amend the general highway traffic law, in relation to the printing of such law for distribution.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one of chapter six hundred and fifty-five of the laws of nineteen hundred and seventeen, entitled "An act to provide for the uniform regulation of vehicles, animals and pedestrians on any public highway in the state, constituting chapter seventy of the consolidated laws," is here amended to read as follows:

§ 31. **Publication and distribution of regulations.** This chapter shall be printed in pamphlet form by the state tax commis-

L. 1917,
ch. 655,
§ 21
amended.

sion,¹ and a copy thereof either mailed or given by it² to each person, firm or corporation to whom a motor vehicle license or chauffeur's license is issued during the period of one year from the time this chapter takes effect, and subsequently to each such person, firm or corporation to whom a license has not previously been issued during the period mentioned. The police department of each city and village shall see that this chapter is posted in all public stables, and garages and street car barns and at hack, cab and express stands and shall keep copies of it at all other stations and issue it upon application.

§ 2. This act shall take effect immediately.

CHAPTER 401

AN ACT to amend the executive law, in relation to the employment of state police in towns, villages and police districts.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article nine-a of chapter twenty-three of the laws of nineteen hundred and nine, entitled "An act in relation to executive officers, constituting chapter eighteen of the consolidated laws," as added by chapter one hundred and sixty-one of the laws of nineteen hundred and seventeen, is hereby amended by adding thereto a new section, to be numbered section ninety-nine, and providing as follows:

§ 99. [Employment of state police in towns, villages and police districts.]³ The governing board of any police district provided for under article fourteen-a of the town law or of any town or of any village may from time to time respectively contract upon behalf of said district, town or village with the superintendent of state police upon behalf of the state for the regular assignment of state police to said district, town or village upon the following terms and conditions: The superintendent of state police shall detail such number of state policemen as shall be agreed upon to such district, town or village for a period of one year, such detail to have not more than one corporal to six troopers, not more than one sergeant to twelve troopers, and not more than one lieutenant to twenty-four troopers; the pay, maintenance and other expenses of such detail for a period of one year shall be computed by the superintendent of state police with the approval of the state comptroller pro rata upon the total cost of the pay, maintenance and similar expenses of the whole department; before such contract shall take effect the governing board of said district, town

¹ Words "state tax commission" substituted for words "secretary of state."

² Word "it" substituted for word "him."

³ Section heading inserted by editor.

or village shall deposit to the credit of the department of state police, in a depository to be designated by the state comptroller with proper sureties, one-half the sum of money so computed and upon the first day of the sixth month during the continuance of said contract shall likewise deposit the remainder of said sum; the superintendent of state police, upon audit of the comptroller, shall draw upon said depository for the pay, maintenance and other expenses of said detail when due; said detail shall have all the powers and duties and shall remain at all times under the authority and discipline of the superintendent of state police as provided for state police assigned to regular duty under this article.

The superintendent of state police is authorized to appoint temporarily to the regular force provided for in this article troopers, non-commissioned officers and officers to fill the places of those detailed under such agreements. In police districts the money to be deposited as required hereunder shall be provided for as authorized under article fourteen-a of the town law as added in nineteen hundred and twenty; if such contract shall be made after the adoption of the annual estimate, money may be provided under the provisions of section three hundred and nineteen-f of the town law as added in nineteen hundred and twenty-one; in towns and villages the money so deposited shall be raised by taxation, or if said contract is made after the making of the annual estimate or the making of the budget, the town board or village board, respectively, shall have power to borrow money for such purpose until the adoption of the next annual estimate or budget; the town board or village board may provide for the issuance of certificates of indebtedness or revenue bonds for such purpose; such certificates or bonds together with the interest thereon to date of maturity shall be paid out of moneys received on account of taxes and revenues applicable to such purposes and in no case shall be made to run more than sixteen months.

§ 2. This act shall take effect immediately.

CHAPTER 402

AN ACT to amend the public health law, in relation to safeguarding motherhood and protecting the health of infants and children, and making an appropriation therefor.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three-a of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as added by chapter five hundred and fifty-nine of the laws of nineteen hundred and thirteen and amended by chapter

L. 1909,
ch. 49,
§ 3a, as
added by
L. 1913,
ch. 559,
and
amended

by L. 1921,
ch. 510,
amended.

five hundred and ten of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 3-a. **Divisions.** There shall be in the state department of health the following divisions, together with such other divisions as the commissioner may from time to time determine:

1. Division of administration;
2. Division of sanitation;
3. Division of laboratories and research;
4. Division of communicable diseases;
5. Division of vital statistics;
6. Division of publicity and education;
7. Division of maternity, infancy and child hygiene;¹
8. Division of public health nursing;
9. Division of tuberculosis.

Each such division shall be under the management of a director appointed by the commissioner.

Art. 2a
(§§ 18,
18a-18c)
added.

§ 2. Such chapter is hereby amended by inserting therein after article two, a new article, to be article two-a, to read as follows:

ARTICLE 2-A.

MATERNITY, INFANCY AND CHILD HYGIENE.

Section 18. Division of maternity, infancy and child hygiene.

18-a. Assistants and employees.

18-b. General powers and duties of the division.

18-c. Specific functions of the division of maternity, infancy and child hygiene.

§ 18. **Division of maternity, infancy and child hygiene.** The objects and purposes of the division of maternity, infancy and child hygiene, and of this article, shall be the safeguarding of motherhood, the saving of infant life and the prevention of the diseases and defects of childhood.

§ 18-a. **Assistants and employees.** The state commissioner of health, within the limits of appropriations made therefor, may employ, for the work of the division of maternity, infancy and child hygiene, such qualified persons as may be necessary, including physicians, nurses and other assistants. Within the amounts appropriated, he also may incur such other expenses as may be necessary for carrying out the provisions of this article.

§ 18-b. **General powers and duties of the division.** The commissioner of health, through the division of maternity, infancy and child hygiene, shall act in an advisory and supervisory capacity, in matters pertaining to the objects and purposes of such division, and shall co-operate with and stimulate local agencies, public and private, in promoting such measures and undertakings as may be designed to accomplish the purposes of this article. The commissioner, through such division, shall co-operate with

¹ Formerly read: "7. Division of child hygiene."

other state departments having jurisdiction over matters affecting the welfare of mothers and children, to the end that existing activities may be co-ordinated and duplication of effort avoided.

§ 18-c. **Specific functions of the division of maternity, infancy and child hygiene.** Among other powers and duties to be exercised by the commissioner of health through the division of maternity, infancy and child hygiene, shall be the following:

1. Making surveys and studies of local conditions influencing the health of mothers and children.

2. Advising localities as to providing adequate care of mothers and infants and children to whom such care is not otherwise available.

3. Holding health consultations for mothers and children in the rural districts in co-operation with local health officers and other physicians.

4. Instructing local public health nurses in the hygiene of maternity and infancy.

5. Making available to mothers through instruction by physicians, nurses and publications, information concerning the hygiene of maternity and infancy.

6. Supervision and training of mid-wives.

7. Prevention of blindness in infancy.

8. The care and rehabilitation of crippled children not otherwise provided for.

9. Public instruction by means of moving pictures, and lectures and other methods regarding preventable conditions affecting infant and maternity deaths.

§ 3. Such of the employees of the state department of health, in the division of child hygiene, as the commissioner may deem proper, shall be transferred to the division of maternity, infancy and child hygiene created by article two-a of the public health law as added by this act, and the persons so transferred shall receive their present salaries for the remainder of the fiscal year ending June thirtieth, nineteen hundred and twenty-two. The unexpended balance of moneys appropriated by the legislature of nineteen hundred and twenty-one for the department of health, available for maintenance, including personal service and other expenses, of the division of child hygiene, shall be available, during the remainder of such fiscal year, for maintenance, including personal service and other expenses, of such division of maternity, infancy and child hygiene.

Transfer
of em-
ployees
of division
of child
hygiene.

§ 4. The sum of one hundred and thirty thousand dollars (\$130,000), or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, for carrying out the provisions of article two-a of the public health law, as added by this act, including purchase of a healthmobile and motor car for transportation of nursing personnel and equipment of clinics. If new positions are created in the department of health, by virtue of the enactment of such article, the moneys hereby appropriated shall not be available for payments for personal service, except temporary

Appre-
priation.

Approval
of new
positions.

service or day labor, until a schedule of positions and salaries shall have been submitted to and approved by the board of estimate and control and the certificate of such approval filed with the comptroller. Subject to the provisions of this section the moneys hereby appropriated shall be paid out by the state treasurer on the warrant of the comptroller on the certificate of the state commissioner of health.

§ 5. This act shall take effect immediately.

CHAPTER 403

AN ACT relative to the management and operation of the canal grain terminal located at Gowanus bay, in the borough of Brooklyn, county of Kings and city of New York, and making an appropriation therefor.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The custody, maintenance, management and operation of the canal grain terminal constructed by the state at Gowanus bay, in the borough of Brooklyn, city of New York, pursuant to the provisions of chapter six hundred and ninety-eight of the laws of nineteen hundred and twenty, and chapter one hundred and seventy-six of the laws of nineteen hundred and twenty-one, are hereby vested in the superintendent of public works, who shall maintain the same as part of the canal system of the state. He shall make and enforce rules and regulations for the management, administration and operation of said canal grain terminal, and such rules and regulations shall become effective when filed in his office in the city of Albany. Such portion of the rules and regulations as relate to the payment to the state of fees for the use of such canal grain terminal, shall be approved by the canal board.

§ 2. The provisions of the warehouse receipts act, being article nine of the general business law, shall apply to the operations carried on by the state at the said canal grain terminal; and for the purpose of carrying into effect the provisions of this section, the superintendent of public works is authorized to execute such receipts and agreements with freight carriers and grain shippers as may be necessary. The superintendent of public works is also authorized to make settlement of any claim against the state on account of the operation and use of said canal grain terminal, but no settlement shall be effective against the state until the same has been approved by the attorney-general and the canal board. Authority is hereby conferred upon the court of claims to hear and determine claims brought against the state growing out of the operation of the said canal grain terminal.

§ 3. For the maintenance and operation of said canal grain terminal, the sum of forty thousand dollars (\$40,000.00), or so much

Moneys
how paid.

Custody
and man-
agement
vested in
superin-
tendent
of public
works.

Applica-
tion of
warehouse
receipts
act.

Claims
against
state.

Appro-
priation.

thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated; and of said amount, a sum not to exceed ten thousand dollars (\$10,000.00) may be applied to the payment of claims settled by the superintendent of public works, as provided in section two of this act. The moneys hereby appropriated shall be payable by the treasurer on the warrant of the comptroller to the order of the superintendent of public works.

§ 4. This act shall take effect immediately.

CHAPTER 404

AN ACT making an appropriation for a survey of that portion of the pipe line boulevard lying in Kings and Queens counties.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of six thousand dollars (\$6,000) is hereby appropriated from any moneys in the state treasury not otherwise appropriated, payable by the state treasurer on the warrant of the comptroller, for the payment of salaries and expenses in connection with the making of surveys, plans, etc., for the construction of a highway within the counties of Kings and Queens, as authorized by chapter eighteen of the laws of nineteen hundred and twenty-one. The moneys hereby appropriated shall be payable by the treasurer on the warrant of the comptroller on the requisition or draft of the state commissioner of highways.

§ 2. This act shall take effect immediately.

CHAPTER 405

AN ACT to amend the labor law, in relation to places of public assembly, and making an appropriation therefor.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended by inserting at the end thereof a new subdivision, to be subdivision twelve, to read as follows:

12. "Place of public assembly" means a place, maintained, rented or leased for pecuniary gain, where one hundred or more persons may assemble for amusement or recreation.

§ 2. Article seventeen of such chapter is hereby renumbered article eighteen, and sections four hundred and seventy to four

Subd. 12
added to
L. 1921,
ch. 60,
§ 2.

Art. 17
(§§ 470-
475) re-

numbered
art. 18
(§§ 500-
505).

New art.
17 (§§ 470-
474) added.

hundred and seventy-five, inclusive, are hereby renumbered, respectively, sections five hundred to five hundred and five, inclusive.

§ 3. Such chapter is hereby amended by inserting therein a new article, to be article seventeen, to read as follows:

ARTICLE 17.

PUBLIC SAFETY.

Section 470. General provision as to construction, equipment and maintenance of places of public assembly.

471. Rules; state standard building code.

472. Enforcement and investigations.

473. Certificate of compliance with requirements of law.

474. Revocation of certificate of compliance.

§ 470. **General provision as to construction, equipment and maintenance of places of public assembly.** All places of public assembly as hereinbefore defined shall be so constructed, equipped and maintained as to provide reasonable and adequate protection to the lives, health and safety of all persons employed or assembled therein.

§ 471. **Rules; state standard building code.** The industrial board shall make rules to carry out the provisions of this article. Such rules shall be the minimum standard required and shall supersede any special law or local ordinance inconsistent therewith, and no local ordinance inconsistent therewith shall be adopted, but nothing herein contained shall prevent the enactment by local ordinance of additional requirements and restrictions. Such rules of the industrial board shall constitute the "State standard building code" for the construction and equipment of places of public assembly, shall be subject to the procedure set forth in sections twenty-nine and thirty of this chapter, may be limited in their application to certain classes of buildings or to the conditions under which they are operated, and some or all of them may apply only to those buildings or places to be constructed, maintained or conducted in the future. Such rules shall have the force and effect of law and be enforced in the same manner as the provisions of this chapter.

§ 472. **Enforcement and investigations.** The industrial commissioner shall enforce the provisions of this article and rules adopted thereunder, except that in cities, towns and villages where there is a department, board or officer charged with the enforcement of building laws or ordinances, such department, board or officer shall enforce the provisions of this article and such rules, and for such purpose shall have all the powers of the industrial commissioner, and except that outside of cities where there is no local enforcing authority the provisions of this article and the rules adopted thereunder shall be enforced by the state police. The industrial commissioner shall inquire into the administration and enforcement of the provisions of this article by all

public officers charged with the duty of enforcement, and for that purpose shall have access to all papers and records kept on file relative thereto. The term "enforcing authority" as used in this article shall be construed to mean either the industrial commissioner or the department, board or officer charged with the enforcement of building laws or ordinances in cities, towns or villages where there is such a department, board or officer.

§ 473. **Certificate of compliance with requirements of law.** The enforcing authority shall ascertain by inspection whether places of public assembly conform to the requirements of this article and the rules adopted thereunder. If such places are found to so conform, he or it shall issue a certificate of compliance to that effect. Such certificate shall be upon a form approved by the industrial commissioner or furnished by him and shall be conspicuously posted on the premises. Before any certificate of compliance shall be issued to a place erected after the first day of October, nineteen hundred and twenty-two, plans for such building shall be filed with the industrial commissioner or with the local enforcing authority for approval, and such plan shall not be approved unless they conform to the provisions of this article and the rules adopted thereunder.

A fee not to exceed ten dollars may be charged to and collected from the owner, lessee or person conducting the place of assembly for the approval of plans and for each inspection, but not more than twenty dollars in any one year may be so charged or collected, in respect of the same premises.

§ 474. **Revocation of certificate of compliance.** From and after October first, nineteen hundred and twenty-two, no place of assembly shall be conducted for pecuniary gain unless a certificate of compliance shall have been issued and conspicuously posted therein. The enforcing authority granting the certificate of compliance may revoke the same if premises are not maintained according to the provisions of law.

§ 4. The sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, is hereby appropriated for carrying out the provisions of article seventeen of the labor law, as added by this act. The moneys so appropriated shall not be available for salaries or new positions in the department of labor, except temporary service or day labor, until a schedule of such positions and salaries shall be submitted to and approved by the board of estimate and control, and a certificate of such approval filed with the comptroller. Subject to the provisions of this section the moneys hereby appropriated shall be paid out by the state treasurer on the warrant of the comptroller to the order of the industrial commissioner.

Appropriation.

Approval of new positions.

Moneys how paid.

§ 5. This act shall take effect immediately.

CHAPTER 406

AN ACT to provide for the acquisition of land and equipment on Long Island for the study of the problems in maintaining the fertility of the soil for truck crops and the control of diseases and injurious insects of the crops of Long Island, and making appropriations therefor.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acqui-
sition of
site and
equipment.

Em-
ployees,
Manage-
ment,

Study of
vegetable
diseases.

Appro-
priation.

Section 1. The trustees of Cornell University are hereby authorized to select a site on Long Island, to be approved by the governor, and to purchase the site so selected and approved, and to construct on such land, when purchased, greenhouses, laboratory, and other buildings and equipment necessary for operation, and to employ scientists in the field of vegetable production, caretakers, and necessary laborers for the study of problems in the maintenance of soil fertility and vegetable production. Such land and equipment shall be under the management and control of the trustees of Cornell University as agents of the state in the administration of the New York State College of Agriculture. Provision shall be made also for the study of vegetable disease and insect control by members of the staff of the New York State Experiment Station, and the board of control of the New York State Experiment Station is hereby authorized to employ scientists in these fields and to purchase necessary equipment and facilities for the study of the control of insect pests and plant diseases affecting vegetables.

§ 2. For the purposes set forth in section one of this act there is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be paid out by the state treasurer upon the warrant of the comptroller upon the certification of the treasurer of Cornell University, the following sums in addition to those provided in the general appropriation act for the New York State College of Agriculture at Cornell University:

Expenses other than personal service:

For the purchase of land for field investigations and demonstrations	\$10,000 00
For repairs to buildings.....	500 00
For the construction of a greenhouse, headhouse and laboratory, and establishing a water supply.	16,200 00
For rent of additional land.....	200 00
For equipment and supplies, including purchase of team of horses, the necessary plows, wagons, harness, laboratory equipment, fertilizers, spray materials, feed, laboratory supplies, and other necessary materials ..	3,500 00
For travel	200 00
For communication	100 00
For fuel, light, power and water.....	500 00

Personal service:

Specialist in vegetable gardening...	3,500 00
Caretaker	1,500 00
Miscellaneous labor	1,800 00

Upon the certification of the board of control of the New York State Experiment Station at Geneva, the following sums in addition to those provided in the general appropriation act for that institution:

Personal service:

Entomologist	\$3,000 00
Plant pathologist	3,000 00

Expenses other than personal service:

Laboratory equipment and supplies, microscope, camera, glassware, chemicals and other necessary materials	300 00
For field equipment and supplies to be used jointly, sprayer, duster, chemicals and supplies.....	1,200 00
For travel	500 00
For communication	50 00

§ 3. This act shall take effect immediately.

CHAPTER 407

AN ACT making an appropriation to acquire the right of way necessary for the improvement of the Harlem river and the Spuyten Duyvil creek from the North river to the East river through the Harlem kills.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. To enable the state to purchase the right of way necessary for the improvement of the Harlem river and the Spuyten Duyvil creek from the North river to the East river through the Harlem kills under the provisions of chapter one hundred and forty-seven of the laws of eighteen hundred and seventy-six as amended by chapter four hundred and fourteen of the laws of nineteen hundred and thirteen, and chapter eight hundred and eight of the laws of nineteen hundred and twenty, the sum of one million five hundred thousand dollars (\$1,500,000.00), or so much thereof as may be necessary, is hereby appropriated; provided, however, that such moneys so appropriated shall be paid out only upon the warrant and audit of the comptroller after submission to him of vouchers thereof approved by the canal board accompanied with the certificates of the attorney-general approving the title to and the form of the conveyance of the lands purchased.

§ 2. This act shall take effect immediately.

CHAPTER 408

AN ACT to amend the tax law, in relation to the franchise tax on certain corporations.

Became a law March 31, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 62,
§ 182, as
amended by
L. 1916,
ch. 833,
amended.

Section 1. Section one hundred and eighty-two of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter three hundred and thirty-three of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:¹

§ 182. **Franchise tax on corporations.** The term "corporation" as used in this section shall include any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificates or other written instruments. For the privilege of exercising its corporate franchises in this state every domestic corporation, joint stock company or association, and for the privilege of doing business in this state, every foreign corporation, joint stock company or association, shall pay to the state treasurer annually, in advance, an annual tax to be computed upon the basis of the amount of its capital stock, employed during the preceding year within this state, and upon each dollar of such amount. The measure of the amount of capital stock employed in this state shall be such a portion of the issued capital stock as the gross assets employed in any business within this state bear to the gross assets wherever employed in business. For purposes of taxation, the capital of a corporation invested in the stock of another corporation shall be deemed to be assets located where the physical property represented by such stock is located.

Every corporation, joint stock company or association, subject to taxation under this section shall, in any event, pay a minimum tax of not less than ten dollars nor less than one mill on each dollar of such a portion of the net value of its capital stock, which net value for the purposes of this section shall be deemed to be not less than five dollars per share, as the amount of its gross assets employed by it in its business in this state bears to its gross assets wherever employed by it in its business. The term "net value" as used in this section shall be construed to mean not less than the difference between a corporation's assets and liabilities and not less than the average price at which such stock sold during said year. But if the dividends made or declared on the par value of any kind of capital stock during any year ending with the thirty-first day of December amount to six or more than six per centum, the tax upon such kind of capital stock shall be at the rate of one-quarter of a mill for each one per centum of dividends

¹ Section materially amended.

made or declared upon the par value of the capital stock during said year, unless such a tax be less than the minimum tax hereinbefore provided in this section, and the tax commission shall, for such purpose, make a fair and equitable apportionment of the assets of the corporation, joint stock company or association, between the different kinds of stocks.

If such corporation, joint stock company or association shall have more than one kind of capital stock, and upon one of such kinds of stock a dividend or dividends amounting to six or more than six per centum upon the par value thereon, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be fixed upon each kind as hereinbefore provided.

The dividend rate for a corporation having stock without nominal or par value shall be determined by dividing the amount distributed as a dividend or dividends during the year by the net value of its assets, as of December thirty-first.

Reports under this section for the year ending December thirty-first, nineteen hundred and twenty-two, shall include all dividends made or declared between October thirty-first, nineteen hundred and twenty-one, and January first, nineteen hundred and twenty-three, and such combined dividends shall be used in determining the rate to be applied to capital stock on which the dividend or dividends are six per centum or more.

§ 2. Subdivision one of section one hundred and ninety-two of such chapter, as last amended by chapter eighty of the laws of nineteen hundred and seventeen,² is hereby amended to read as follows:

§ 192, subd. 1, as amended by L. 1917, ch. 80, amended.

1. Corporations paying franchise tax. Every corporation, association or joint stock company liable to pay a tax under section one hundred and eighty-two of this chapter shall, between the first day of January³ and the fifteenth day of February⁴ in each year, make a written report to the tax commission of its condition at the close of its business on December⁵ thirty-first preceding, stating the amount of its authorized capital stock, the amount of stock paid in, the date and rate per centum of each dividend declared by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during such year. Upon written application the state tax commission may, in its discretion, extend the time in which to make report, but not beyond the fifteenth day of March⁶ succeeding.

§ 3. Section one hundred and ninety-three of such chapter, as amended by chapter three hundred and seventeen of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:⁷

§ 193, as amended by L. 1915, ch. 317, amended.

² Previously amended by L. 1915, ch. 317.

³ Formerly "November."

⁴ Formerly "December."

⁵ Formerly "October."

⁶ Formerly "February."

⁷ Section materially amended.

§ 193. **Value of stock to be appraised.** The president, treasurer or secretary of the company liable to pay a tax under the provisions of section one hundred and eighty-two of this chapter, shall, under oath, between the first day of January and the fifteenth day of February in each year, estimate and appraise the capital stock of such company at its actual value, and shall forward the same to the tax commission with the report provided for in the last section. If the tax commission is not satisfied with the valuation so made and returned it is authorized and empowered to make a valuation thereof, and settle an account upon the valuation so made by it, and the taxes, penalties and interest to be paid the state.

§ 197, as amended by L. 1917, ch. 707, amended.

§ 4. Section one hundred and ninety-seven of such chapter, as last amended by chapter seven hundred and seven of the laws of nineteen hundred and seventeen,⁸ is hereby amended to read as follows:

§ 197. **Payment of tax and penalty for failure.** ⁹A tax imposed by section one hundred and eighty-two of this chapter shall be due and payable into the state treasury on or before the fifteenth day of March in each year. A tax imposed by section ¹⁰one hundred and eighty-six of this chapter shall be due and payable into the state treasury on or before the fifteen day of January in each year. A tax imposed by section one hundred and eighty-four of this chapter on a transportation or transmission corporation, or by section one hundred and eighty-five, on elevated railroads or surface railroads not operated by steam, shall be due and payable into the state treasury on or before the first day of August in each year. A tax imposed by section one hundred and eighty-seven of this chapter on an insurance corporation shall be due and payable into the state treasury on or before the first day of June in each year. A tax imposed by sections one hundred and eighty-eight, one hundred and eighty-eight-a or one hundred and eighty-nine shall be due and payable into the state treasury on or before the first day of September in each year. A tax imposed by section one hundred and ninety-one of this chapter on a foreign banker shall be due and payable into the state treasury on or before February first in each year. If such tax in any case is not paid within thirty days after the same becomes due, or if the report of any such corporation is not made within the time required by this article, the corporation, association, joint-stock company, person or partnership, liable to pay the tax, shall pay into the state treasury, in addition to the amount of such tax, a sum equal to five per centum thereof, and one per centum additional for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith. Every corporation, association, joint-stock company, person or partnership failing to make the annual report required by this article, or failing to make any special report required by the commission, within any reasonable time to be

⁸ Previously amended by L. 1915, ch. 315.

⁹ Following sentence new.

¹⁰ Words "one hundred and eighty-two or" omitted.

specified by the commission, shall forfeit to the people of the state the sum of one hundred dollars for every such failure, and the additional sum of ten dollars for each day that such failure continues. Such tax shall be a lien upon and bind all the real and personal property of the corporation, joint-stock company or association liable to pay the same " until the same is paid in full.

§ 5. This act shall take effect immediately.

CHAPTER 409

AN ACT to authorize and direct the board of supervisors of the county of Albany to distribute among the several towns and cities of the county certain surplus moneys reported as paid into the county treasury pursuant to article five-b of the agricultural law between May first, nineteen hundred and nineteen, and June thirtieth, nineteen hundred and twenty.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of the county of Albany, at its annual session in the year nineteen hundred and twenty-two, is hereby authorized and directed to apportion among the several towns and cities of the county the sum of twelve thousand two hundred and six dollars and forty-two cents, being seventy-five per centum of the amount heretofore reported to such board by the county treasurer as the total amount paid into the county treasury of such county pursuant to article five-b of the agricultural law between May first, nineteen hundred and nineteen and June thirtieth, nineteen hundred and twenty, exclusive of the total amount expended for fees of assessors and peace officers and the amount paid as compensation for damages to owners of domestic animals killed, injured or damaged by dogs or otherwise disbursed by such treasurer. The apportionment authorized and directed by this act shall be on the basis of and in proportion to the contributions made by such towns and cities on account of the provisions of article five-b of the agricultural law during the period of time covered by the said report of such treasurer.

§ 2. This act shall take effect immediately.

CHAPTER 410

AN ACT to amend the banking law, in relation to restrictions on loans.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision d of subdivision four of section one hundred and eight of chapter three hundred and sixty-nine of

¹¹ Words "from the time when it is payable" omitted.

L. 1914,
ch. 369,
§ 108,
subd. 4,
subd. (d)
amended.

the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

Restrictions on loans on real estate.

(d) The bank has its principal place of business elsewhere in the state, and its total direct and indirect loans upon real estate security exceed, or by the making of such loans will exceed, twenty-five per centum of its total assets, ¹ provided that if such bank has its principal place of business in a village or city in which there is no savings bank, and maintains a special interest department for the withdrawal of deposits from which not less than sixty days' notice of withdrawal may be required, it may loan not to exceed fifty per centum of the total deposits in its special interest department in lieu of twenty-five per centum of its total assets, as hereinabove provided, such election on its part, before becoming effective, to be certified to the superintendent of banks by the president and secretary of said bank thereunto duly authorized by its board of directors.

The limitations and restrictions contained in this subdivision shall not prevent the acceptance of any real estate securities to secure the payment of a debt previously contracted in good faith, but every mortgage and every assignment of a mortgage taken or held by such bank shall immediately be recorded in the office of the clerk or the proper recording officer of the county in which the real estate described in the mortgage is located.

§ 2. This act shall take effect immediately.

CHAPTER 411

AN ACT to amend the charter of the city of Buffalo, to empower said city to adopt a plan of main thoroughfares, and providing for the widening and paving of streets included in such plan.

Accepted by the City.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 365 added to L. 1914, ch. 217.

Section 1. Chapter two hundred and seventeen of the laws of nineteen hundred and fourteen, entitled "An act to provide a charter for the city of Buffalo," is hereby amended by inserting therein, after section three hundred and sixty-four, a new section, to be section three hundred and sixty-five, to read as follows:

Plan of main thoroughfares.

§ 365. The council may adopt by ordinance a plan of main thoroughfares for the better accommodation of street traffic. Before adopting any such plan it shall declare by resolution such intent, and upon such resolution becoming of force the city

¹ Remainder of paragraph new.

clerk shall cause the same to be published in the official paper daily for two weeks, Sundays excluded. Such resolution shall set forth the streets to be included in such plan, and fix a date for a public hearing thereon, which hearing may be adjourned from time to time. Said plan shall consist of a description of the streets to be included and of a map of the city, showing thereon the various streets designated as main thoroughfares. Said map shall be filed in the office of the city clerk, and a duplicate copy thereof in the office of the city engineer.

Whenever any street is to be paved, repaved or the pavement widened on a street or portion thereof, which has been designated as a main thoroughfare on the duly adopted general plan of main thoroughfare streets, the council shall determine what proportion of the cost thereof shall be paid from the general fund within the limits of not less than one-third nor more than three-fourths of such cost, and the remainder thereof shall be paid by local assessment. This act shall not apply to parks or parkways.

Payment
of cost of
improve-
ments.

§ 2. This act shall take effect immediately.

CHAPTER 412

AN ACT to amend the second class cities law, in relation to the removal of elective officers.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty of chapter fifty-five of the laws of nineteen hundred and nine, entitled "An act in relation to cities of the second class, constituting chapter fifty-three of the consolidated laws," is hereby amended to read as follows:

L. 1909,
ch. 55,
§ 20
amended.

§ 20. **Charges against city officers.** Whenever it is provided herein, or otherwise by law, that an officer of the city shall hold office during good behavior or shall be removed only upon charges, such charges shall be for disability for service or neglect or dereliction of official duty or incompetency or incapacity to perform his official duties or some delinquency materially affecting his general character or fitness for the office, unless otherwise specifically provided by law. Where the charges are for disability for service, the examination shall be one of inquiry only and the decision made in a proper case, may be for honorable discharge from service. In all other cases the examination shall be a trial, conducted under such reasonable rules and regulations as shall be prescribed by the officer, officers, board or body before whom the trial is held. ¹ Whenever an elective city officer shall be or become permanently disabled, or permanently incapacitated and is thereby rendered incapable of performing his official duties

¹ Remainder of section new.

during the remainder of his term of office, such officer may be removed upon charges and after hearing, in the same manner as is provided herein or otherwise by law, for the removal of appointive officers of the city.

§ 2. This act shall take effect immediately.

CHAPTER 413

AN ACT to amend the conservation law, in relation to public water supplies.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 647,
§ 2,
subd. 2,
as amended
by L. 1921,
ch. 499,
amended.

Section 1. Subdivision two of section two of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

Water
control
commis-
sion.

2. The terms "commission," "conservation commission" and "commissioner" as used in articles seven, seven-a, eight, eight-a, eight-b,² nine, nine-a and nine-b, shall mean a commission consisting of the conservation commissioner or a deputy designated by him, the attorney-general or a deputy designated by him, and the state engineer and surveyor or a deputy designated by him. Such commission shall be known as the water control³ commission. Where, by the provisions of any such article, any plans or specifications, by whomsoever prepared or submitted, require the approval of such commission, such approval shall not be complete without the concurring vote of the state engineer and surveyor. All engineering work, except surveying boundaries of forest preserve property, on the part of the state under the provisions of any article of this chapter shall be performed by the state engineer and surveyor or the forces of his department, or under his direction.⁴ With the approval of such commission, the members thereof may assign to the work of such commission such officers and subordinates of their several offices or departments as may be necessary. Such commission also may employ such assistants as may be provided for by appropriation, and may fix their compensation within the amounts appropriated. The office of such commission shall be in the office of the state engineer and surveyor. Such commission may, by resolution, appoint an officer or employee in the office of the state engineer and surveyor to act as its

¹ Previously amended by L. 1915, ch. 318; L. 1916, ch. 257; L. 1917, ch. 486.

² Word "eight-b" new.

³ Word "control" substituted for word "power."

⁴ Words "or under his direction" new.

secretary. ¹All maps, reports, papers and records of every description of the conservation commission or of the office of the state engineer and surveyor bearing on or relating to the work done under the provisions of articles seven, seven-a, eight, eight-a, eight-b, nine and nine-a or nine-b and heretofore by law required to be filed in the offices of the conservation commission or of the state engineer and surveyor shall be transferred to the water control commission and by it filed in its office. Such commission shall have an official seal. For the purpose of taking testimony or collecting information at any hearing or investigation which the commission is directed by law to make, the commission may by resolution designate an officer or employee of any of the three departments of its members to act as its deputy and to conduct such hearing and investigation. Any member of the commission, or his duly authorized deputy, or any duly authorized deputy of the commission, shall have power to administer oaths in any proceeding which the commission is required or authorized by law to conduct. The provisions of sections twenty-four and twenty-five of this chapter shall apply to this commission as well as to the conservation commission.

§ 2. Sections five hundred and twenty-one and five hundred and twenty-two of such chapter as last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and twenty-one and section five hundred and twenty-four of such chapter as last amended by chapter four hundred and sixty-nine of the laws of nineteen hundred and thirteen are hereby amended to read as follows: § 521.
522, as
amended
by L. 1921,
ch. 499;
§ 524, as
amended by
L. 1913,
ch. 469,
amended.

§ 521. **Municipal corporations must submit maps and profiles of new or additional sources of water supply.** No municipal corporation or other civil division of the state, and no board, commission or other body of or for any such municipal corporation or other civil division of the state shall, nor shall any person or waterworks corporation engaged in supplying or proposing to supply the inhabitants of any municipal corporation or other civil division of the state with water, after this chapter takes effect, have any power to acquire, or to take a water supply or an additional water supply, or to take or condemn lands for any new or additional sources of water supply, until such person, corporation or civil division has first submitted the maps, plans, and profiles therefor to the commission, as hereinafter provided, and until the commission shall have approved the same, or approved the same with such modifications as it may determine to be necessary as hereafter provided. Approval shall not be necessary of any plans heretofore approved by the state water supply commission, or by the conservation commission,⁵ or of any plans or work for a new or additional water supply or filtration plant authorized in pursuance thereof or in connection therewith, or of any plans or work for the extension of supply or distributing mains or pipes of a municipal water supply plant into and for the pur-

⁵ Following sentence new.

⁶ Words "or by the conservation commission" new.

pose of supplying water in any territory within the limits of the municipality owning such plant, including territory which has not been heretofore supplied with water by such plant.

§ 522. **Petition for approval of plans for water supply and proceedings thereupon.** Any municipal corporation or other civil division of the state, or any person or waterworks corporation, may make application by petition in writing to the commission for the approval of its maps, plans and profiles of such new or additional water supply or for such new or additional source or sources of water supply. Such application shall be accompanied by an exhibit of maps of the lands to be acquired and profiles thereof showing the sites and areas of the proposed reservoirs, a plan of the other works proposed to be constructed, the profiles of the aqueduct lines and the flow lines of the water when impounded, maps, plans and surveys and abstract of official reports relating to the same, showing the need for a particular source or sources of supply and the reasons therefor, the plan proposed for protecting the new supply and watershed from contamination, or the proposed plan for filtering such new supply, and such application shall be accompanied by a plan or scheme to determine and provide for the payment of the proper compensation for any and all legal damages to persons or property, whether direct or indirect, which will result from the acquiring of said lands and the execution of said plans. Such petition shall also be accompanied by such proof as to the character and purity of the water supply proposed to be acquired as the commission shall require. If such petition is made by a person or waterworks corporation, it shall be accompanied by an undertaking in such amount and with such sureties as the commission shall determine, that such person or waterworks corporation will pay the expenses of the hearing and determination as hereinafter provided. Said commission shall thereupon cause public notice to be given that on a day therein named it will hold a public hearing at such place as it may specify in said notice, for the purpose of hearing all persons, municipal corporations or other civil divisions of the state that may be affected thereby. Such notice shall be published in such newspapers and for such length of time, not exceeding four weeks, as the commission shall determine. At any time prior to the day specified in such notice any person or municipal corporation or the proper authorities of any civil division of the state may file in the office of the commission⁷ objections to the project proposed by such application. Every objection so filed shall particularly specify the ground thereof. The commission shall, upon the day specified in said notice, or upon such subsequent day or days to which it may adjourn the hearing, proceed to examine the said maps and profiles and to hear the proofs and arguments submitted in support of and in opposition to the proposed project, but no person, municipal corporation or local authorities shall be heard in opposition thereto except on ob-

⁷ Word "commission" substituted for words "state engineer and surveyor."

jections filed as authorized by this section. The commission shall determine whether the plans proposed are justified by public necessity, whether they provide for the proper and safe construction of all work connected therewith, whether they provide for the proper protection of the supply and the watershed from contamination or provide for the proper filtration of such additional supply, and whether such plans are just and equitable to the other municipalities and civil divisions of the state affected thereby and to the inhabitants thereof, particular consideration being given to their present and future necessities for sources of water supply, and whether said plans make fair and equitable provisions for the determination and payment of any and all legal damages to persons and property, both direct and indirect, which will result from the execution of said plans or the acquiring of said lands. The commission shall within ninety days after the final hearing and with all convenient speed either approve such application, maps and plans as presented or with such modifications in the application, maps and plans submitted as it may determine to be necessary to protect the water supply and the interests of the applicant or of the inhabitants of the territory supplied by it with water, or the water supply and interests of any other municipal corporation, or other civil division of the state, or the inhabitants thereof, or the water supply and interests of any other person or waterworks corporation, engaged in supplying water to any other municipal corporation or other civil division of the state or the inhabitants thereof; or to bring into co-operation all municipal corporations, or other civil divisions of the state, which may be affected thereby; or to make just and equitable the submitted plan or scheme to determine and provide for the payment of the proper compensation for any and all legal damages to persons or property, whether direct or indirect, which will result from the acquiring of said lands and the execution of said plans, or to make safe all dams or reservoirs to be constructed by said plans; or it may reject the application entirely or permit another to be filed in lieu thereof, but it shall, however, make a reasonable effort to meet the needs of the applicant, with due regard to the actual or prospective needs and interests of all other municipal corporations and civil divisions of the state affected thereby and the inhabitants thereof. Whenever the commission shall make a decision on any application submitted to it, it shall state the same in writing, and ⁸ shall cause the same to be filed, together with all plans, maps, surveys and other papers or records relating thereto, in the office of the commission.⁹ The decision of the commission and its action on any application may be reviewed by certiorari proceedings. The expense of any such hearing and determination by the commission shall be certified by said commission to the person, waterworks corporation, municipal corporation or other civil division of the state making such application and shall be paid by said applicant within thirty days

⁸ Words " , if it approves " omitted.

⁹ Word " commission " substituted for words " state engineer and surveyor."

thereafter upon the certificate of the commission to the persons entitled thereto.

§ 524. **Water supply to be used in other states.** No waters of this state shall be diverted without the state. No person or corporation shall transport or carry through pipes, conduits, ditches or canals the waters of any fresh water lake, pond, brook, river, stream or creek in this state or any well, subsurface or percolating waters of this state into any other state for use therein except where the consent in writing of the ¹⁰ commission has been obtained. The ¹⁰ commission shall enforce the provisions of this section, and the supreme court may upon the application of the commission prevent such diversion or transportation by injunction.

Art. 9a,
as amended
by L. 1921,
ch. 499,
amended.

§ 3. Article nine-a ¹¹ of such chapter as last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and twenty-one is hereby amended to read as follows:

ARTICLE 9-A.

UNION WATER DISTRICTS.

Section 530. Union water districts; formation.

531. Petition to commission; hearing.

532. Submission of proposition.

533. Acquiring of lands.

534. Letting of contracts; construction work.

535. Maintenance and operation of works.

536. Cost and expenses.

537. When other municipalities may participate; regulations.

538. Sale of water by commission.

539. Definitions.

§ 530.¹² **Union water district; formation.** Any number of municipalities, including water districts, within contiguous counties may join in the formation of a union water district, and three or more such municipalities may meet and confer for that purpose. The subject for consideration at any such meeting shall be the proposition that the municipalities thus conferring shall join in the formation of a union water district. Municipalities not represented at the first meeting may participate in adjourned meetings and each municipality represented at any such meeting shall have one vote, which shall be cast by the chief executive officer thereof. The officers so attending shall choose a chairman, who shall preside over the meeting and a clerk whose duty it shall be to keep minutes of the proceedings. Whenever ten or more municipalities so attending shall vote in the affirmative on said proposition, those so voting shall thereupon become a union

¹⁰ Word "conservation" omitted.

¹¹ As added by L. 1913, ch. 233.

¹² Section 530 is not amended by this act. This section was amended by L. 1922, ch. 243, ante, the amendments effected by said ch. 243 not being incorporated in this section as here found.

water district, except that if less than ten municipalities shall vote in the affirmative, they shall become a union water district, provided they shall have a combined population of at least twenty-five thousand inhabitants, according to the last preceding federal census or state enumeration, and the census or enumeration last taken shall control. Whenever such meeting shall result in the formation of a union water district, a report in writing of such meeting shall be made and subscribed by the chairman and the clerk of the meeting, and such report shall set forth the attendance at such meeting, the vote taken, and the name adopted for such district, which shall consist of one word to precede the words "union water district" and shall not be a name previously adopted by any other such district, and the same shall within five days after such meeting, be filed in the office of the clerk of each county wherein any municipality becoming a member of such union water district shall be situated.

There shall be a board, to be known as the trustees of such union water district, consisting of the chief executive officer of each municipality becoming a member thereof. A majority of all the members of such board of trustees shall constitute a quorum for the transaction of business, and they shall choose one of their number chairman, whose duty it shall be to preside at meetings of the board, and they shall choose a clerk, whose duty it shall be to keep the records of its proceedings. Within ten days after the filing of such a report in the offices of the county clerks, the said trustees shall meet and each shall take and file with the said clerk the constitutional oath of office.

The said board of trustees shall have power and it shall be their duty to adopt by-laws and rules to govern the conduct of its business. Meetings, in addition to any meetings otherwise provided for in this article, may be called by at least three trustees who shall file said call with the clerk, and it shall be the duty of the clerk to give written notice of such meeting by mail to each member at least two days prior to the time fixed therefor, stating in such notice the time and place of the meeting. All meetings shall be held at a convenient place within one of said municipalities.

§ 531. **Petition to ¹² commission; hearing.** The board of trustees of such union water district may apply in writing to the commission to investigate the proposition and to cause surveys, maps, plans and estimates to be made and such further or other information supplied as may be deemed advisable by the commission. Such petition shall set forth the formation of such union water district and state the population thereof determined in the manner hereinbefore specified, and shall contain an estimate of the probable population of each municipality at the end of ten years next succeeding and an estimate of the consumption of water per capita per diem which such municipality will require, and a statement in detail of all water supplies and works then owned

¹² Word "conservation" omitted.

by any such municipality and of the water works of any water works company or of any person supplying water to them or any of them and such other matters, if any, as may be prescribed by the rules and regulations of the commission. The petition shall also state at what location or point in or for each municipality it is desired to have water supplied by works to be constructed.

Upon the receipt of such petition, the commission may in its discretion, and if it has funds available for such purpose, cause preliminary investigations, surveys, maps and plans to be prepared. If the commission thereupon finds that the physical conditions are unfavorable for the acquisition of a water supply and the construction of works for the supply of such union water district, or that the same would be excessively expensive, it shall so report, and in that case may in its discretion decline to take further action on such petition. If the commission shall deem it advisable so to do, it may make final investigations of the proposition and cause final surveys, plans, estimates of cost and specifications to be made and take any other steps incidental thereto.

Upon completion thereof the commission shall furnish the board of trustees of said union water district with copies of its report therein. Thereupon the commission shall set a time and place for a public hearing upon the petition and on such report and shall hear allegations and proofs for or against the same and after such hearing the commission shall determine whether an adequate supply of pure and wholesome water is obtainable at reasonable cost for serving all the municipalities within such union water district. In making such determination the commission shall consider the present and future necessities of municipalities and the inhabitants thereof not parties to the petition but whose sources of water supply might be affected or impaired by the project under consideration. The determination so arrived at shall be reported by the commission to each such municipality.

The purpose of such project shall be to supply water to central distributing points for each municipality. All reservoirs, standpipes, mains, pipes, valves, hydrants and appurtenances for the storage and distribution of water from such central points to consumers shall be such as may have been heretofore or may be hereafter constructed by or for each municipality as otherwise provided by law. The ownership, construction and maintenance of such municipal works, and the distribution and sale of water after the same leaves such central points shall be and remain under the duly constituted officers of each municipality as is now provided by law. All water shall be metered at such central points under the direction and control of the commission. The report of the commission if in favor of the project shall determine what proportion of the whole original cost of establishing¹³ water works for such union water district for delivery of water at such central points shall be borne by each municipality.

¹³ Word "conservation" omitted.

The pendency of a proceeding on the part of any municipality or water district for procuring an independent supply of water under any statute, shall not prevent such municipality or water district from taking part in the formation of a union water district as herein provided.

§ 532. **Submission of proposition.** Upon receiving from the commission the report, maps, plans, estimates of cost, and other information aforesaid, the board of trustees shall consider and either adopt or reject the same. If the board adopts the same, such adoption shall be certified by the board to each municipality included within such union water district, and thereupon there shall be submitted to the electors of each such municipality a proposition for issuing its bonds for its proportion of the estimated cost aforesaid. Such proposition shall be submitted within thirty days after receiving such certification from the board of trustees.

In case of a city, except as herein otherwise provided, such election shall be conducted according to the statutes applicable to the submission of a proposition for the establishment of an independent water supply for such city or for authorization of a bonded debt. In case of a village, except as herein otherwise provided, such election shall be conducted in the manner provided by article nine of the village law. In case of a water district, except as herein otherwise provided, such election shall be conducted as provided in article thirteen of the town law, but only electors resident within the water district shall participate in the election. Such proposition shall be deemed adopted by a municipality if a majority of all the votes cast at said election shall be cast in favor of the proposition. Except as otherwise provided herein, a municipality, when the issuance of such bonds has been authorized as herein provided, shall issue and sell the same in the manner now provided by law for the issuance and sale of bonds, except that the limitations now provided by law upon indebtedness of municipalities shall not apply to a debt incurred under the provisions of this section except as otherwise provided by the constitution of the state.

It shall be the duty of the proper authorities of such municipality to levy annually, in the manner now provided by law in case of bonds authorized to be issued by such municipality, such sum or sums as shall be necessary to meet the principal and interest upon the bonds issued as provided herein, or for the establishment of a sinking fund on account of the bonds so issued.

An affirmative vote in any municipality at an election held as aforesaid shall be binding for a period of two years. A negative vote in any municipality shall not be final as to said municipality, but the same proposition may be resubmitted not more than three times to the electors thereof and in such case not more than four months shall elapse between such resubmission unless an affirmative vote shall result. If the vote of any such municipality shall be in the negative four times, then such union water district shall cease to exist, except that in such case the municipalities voting in

the affirmative may through the said board of trustees apply to the commission to certify the proportion of cost which each such municipality should bear of such project, as the same should be modified by reason of the elimination of the municipalities voting in the negative, and on a report by the commission of such estimate, a proposition based thereon shall be submitted to each such municipality in the manner herein provided for the submission of an original proposition and in that case the provision aforesaid as to the issuance and sale of bonds shall apply as so modified. If in such case any municipality shall vote in the negative, no further proceeding shall be had upon such petition and said union water district shall cease to exist.

Upon the issuance and sale by a municipality of bonds as herein provided, the proceeds shall be deposited in a national or state bank or in a trust company by each municipality separately, but to the credit of the commission, and such moneys shall be used and paid out by the commission for the purposes herein provided. Such municipality shall select the depositories which shall agree to pay the highest rate of interest upon such deposit and the deposit shall be secured by bonds to the municipality approved by the commission. The interest accumulating upon such deposit shall be credited to the municipality making the same and shall be used by it in paying interest on its bonds issued as above provided. In withdrawing such deposits, the commission shall withdraw not more than one-half of the amount so deposited by any one municipality until one-half of the separate deposits of other municipalities shall have been withdrawn.

Upon concurrence of a sufficient number of municipalities by affirmative votes on submission of the proposition aforesaid and the deposit of an aggregate amount of money equal to the estimate of the cost reported as herein provided, the commission shall proceed to construct water works, as described in its report or as the same may after such hearing be modified, subject only to such minor changes in the design as circumstances may from time to time in the opinion of the commission require. Such works shall be known as union¹⁴ water-works.

§ 533. **Acquiring of lands.** The commission or its members or agents, and such other persons as may be necessary for the execution of the powers and duties herein provided,¹⁵ may enter upon any land or water for the purpose of making surveys, examinations and investigations for preparing the maps, plans, specifications and reports herein provided for, and the persons damaged thereby shall be entitled to file claims therefor with the court of claims and recover against the state such damages.

The commission shall have the power to purchase and take possession of in the name of the people of the state of New York and to be held by said people for the purposes authorized by this article or to acquire in the same name by condemnation as here-

¹⁴ Word "union" substituted for word "conservation."

¹⁵ Words "including engineers designated by the state engineer and surveyor," omitted.

inafter provided for such purposes, all lands above or under water and structures and to acquire and take in the same name and manner and divert and use waters, public or private, deemed by the commission to be necessary for said purposes. If the commission shall be unable to agree with the private owner of lands and properties for the purchase thereof or with private owner of frontage along waters for acquiring of the right to divert such waters or to agree with the private owner of lands for acquiring of easements in, over or against such lands, the same may be acquired by the commission by condemnation as follows:

An accurate survey of the lands so acquired or of lands in, over or against which any easement is so required, shall be made and a map thereof shall be prepared accompanied with an accurate description of the said lands, rights and easements so required, which description shall state the volume of water to be taken or diverted where less than the whole flow of any stream or water is to be taken or diverted and of the period during which such lands are to be held or such waters used or diverted and a sufficient description of any other easements in, over or against such lands, so as to describe with common certainty the lands, rights or easements to be taken, and the same shall be certified by the commission and filed in the office of the commission¹⁶ and a duplicate thereof made and recorded in the office of the clerk of the county within which any lands taken or affected are situated. Thereupon the commission may apply to the supreme court within the judicial district containing such lands for the appointment of commissioners of appraisal to determine the amount of compensation to be paid by the commission for the property to be so appropriated and, except as otherwise provided in this article, the provisions of title one of chapter twenty-three of the code of civil procedure known as the condemnation law shall apply to and govern the procedure on such application and regulate the fixing and payment of the compensation to be made. The commission may in its discretion unite in one petition to said court, applications to acquire several such properties or all the separate properties sought to be taken for any one project carried on under this article.

Such petition shall be accompanied by a duplicate of the map and descriptions of the properties to be taken and required to be filed as aforesaid.

On the appointment of commissioners of appraisal and the taking and filing of official oaths by them as required by the condemnation law in case of such application, the commission may enter upon and take possession of and use, for the purposes herein authorized, the lands and properties described in such petition and the said maps and statements accompanying the same. Said petition and the said duplicate map and statements filed therewith shall be conclusive evidence of the boundaries of the lands to be appropriated and of the extent and nature of any rights and easements described therein to be taken. This provision for compensation shall not be construed to require pay-

¹⁶ Word "commission" substituted for words "state engineer and surveyor."

ment of compensation except to the extent of the legal rights of such private owners and according to the legal measure of damages and there shall be no presumption that the lands and property rights so described are privately owned.

In case any lands or rights as hereinbefore described are owned by the public not including the lands and waters of the canals and lands within the forest preserve, and the acquisition thereof for the purposes herein described shall be necessary, the same may be entered upon and used by the commission and if the same were at the time of such taking the separate property or under the jurisdiction of any county or other municipality or other civil division of the state or contain improvements made by them, a just and fair sum on account of such taking may be agreed upon by the commission and the governing board or body of such county, municipality or civil division and the amount thereof shall be paid over by the commission to the proper officers of such county, municipality or civil division on the execution and delivery to the commission of an appropriate conveyance describing the lands and rights so taken and in case such amount cannot be agreed upon the same shall be fixed and determined by three commissioners to be appointed by the supreme court within the judicial district where said lands affected are located on application either by the commission or the proper authorities of such county, municipality or civil division on notice to the other and when the determination of such commissioners shall be confirmed by said court the sum so affixed and determined upon shall be paid by the commission.

Any diversion right now exercised for private purposes and under which public waters are diverted under any gratuitous franchise, express or implied, or franchise terminable at will as against the user, shall be and be deemed to be revoked when and to the extent that the waters subject to diversion are in the opinion of the commission, to be so certified by order to be made by it, needed for public water supply as herein provided. The commission shall have the right, subject, in case of state improved highways, to the approval of the state commission of highways, to relocate highways which are within lands to be flowed by works constructed hereunder and shall have the right to lay pipes or conduits for conveyance of water along or across any highway or other public place and across any railroad, canal, transmission or other way devoted to public use, but the same shall be restored to its former condition of usefulness. The commission shall have power to apply in behalf of the state under any law of congress for permission to divert waters from any Indian lands when required for furnishing public water supply for a union water district.

Whenever it shall be necessary to appropriate lands occupied by graves, burial places, cemeteries or other places of interment of human remains, the same may be acquired in the same manner as other lands as herein provided and where the same is to be acquired by condemnation, service of notice of the time and place

of presentation of the petition upon a person, corporation or other governing board, body or officer having possession, ownership or exercising control thereof, or service thereof in such manner or upon such other persons as shall be specially directed by the court, shall be sufficient. But such lands shall not be entered upon by the commission in such case until after judgment adjudging that the condemnation thereof is necessary for the purposes herein specified shall be rendered, nor until the special provisions of such judgment as to the removal and reinterment of the human remains in said lands shall be complied with by the commission and the judgment shall require that such remains be removed to some other appropriate lands or places to be specified in said judgment including the removal and replacing of all marks distinguishing the persons so interred and the removal, transportation and reinterment of such remains shall be made in accordance with the provisions of the public health law and the local rules or ordinances of any city, village or town wherein the lands containing such remains or lands in which they shall be reinterred are located. Upon completing the work of reinterment the commission shall convey an appropriate right and title in the lands acquired by it for such reinterment, to the person, corporation or governing board or officer, if any, formerly owning possession or controlling the property from which said remains were removed. If there be no such person, corporation or other governing board or officer, the commission shall, as part of the expense of the project prosecuted by it, maintain the property acquired for such reinterment as a cemetery. The lands required for such reinterment shall be deemed to be required for the purposes of the project authorized by this article.

Before any lands are acquired by purchase or any condemnation proceedings instituted or any expenditure made for excavation or construction hereunder, the commission shall cause a general map to be made and filed in the office of the commission¹⁷ and furnish a certified copy thereof to each municipality a member of a union water district, which map shall show the lands necessary to be acquired and waters necessary to be diverted, and shall show the lands needed for rights of way and for the location of reservoirs and central points of delivery of water, and the commission shall cause general plans of all construction and excavation work to be made and filed, and copies thereof furnished in the same manner.

§ 534. **Letting of contracts; construction work.** All excavation and construction work shall be performed under contracts based upon maps, plans and specifications and estimates of quantities made by direction of the commission as hereinbefore provided, and any contract for performance of the whole work to be done or material, based upon any one petition or any contract for any part of such work or materials shall be let to the lowest responsible bidder after public notice of such letting, to be given by advertising the same once in each week for four weeks immediately preceding the day fixed for the receiving of bids and one such notice

¹⁷ Word "commission" substituted for words "state engineer and surveyor."

shall be published in a newspaper printed within each of the counties wherein any part of such work is to be performed. The requirements of the state finance law and the labor law as to the form and contents of public contracts in respect to the requirements of bonds from contractors to secure faithful performance and completion of the work shall apply to all contracts let under the provisions of this article.

If in the judgment of the state engineer and surveyor any work is not being performed according to the contract or for the best interests of the public, he shall so certify to the commission and the commission shall thereupon have power to suspend or stop the work under such contract while it is in progress, and to provide for completion of the same in such manner as will accord with the contract specifications and for the best interests of the public, or the contract may be cancelled and readvertised and relet in the manner herein prescribed and any excess in the cost of completing the work beyond the price charged for which the same was originally awarded, shall be charged to and paid by the contractor failing to perform the work.

If at any time in the conduct of the work under any contract it shall become apparent to the state engineer and surveyor that any item in the contract will exceed in quantity the engineer's estimate by more than fifteen per centum, he shall so certify to the commission and the commission shall thereupon determine whether the work in excess thereof shall be completed by the contractor under the terms and at the prices specified in the contract or whether it shall be done by the commission or whether a special contract shall be made for such excess in the manner above prescribed. Every contract made hereunder shall reserve to the commission the right to suspend or cancel the contract as above provided and to complete the work or readvertise or re-let the same as the commission may determine and reserve to the commission the right to enter and complete any item of the contract which shall exceed in quantity the engineer's estimate by more than fifteen per centum or to make a special contract for such excess as the commission may determine. All excavation and construction work shall be performed under the supervision of the state engineer and surveyor, and all payments upon contracts shall be made upon estimates to be made by him.¹⁸

§ 535. **Maintenance and operation of works.** Upon completion of any union¹⁹ water works as provided hereunder, the commission shall maintain and shall operate the same and shall guard the waters from contamination. The commission shall cause records to be kept of the quantity of water delivered to the central points and the same shall be measured by meter to each municipality and the commission shall render to each municipality in a

¹⁸ Sentence omitted which read: "All works to be constructed hereunder shall be designed for delivery of water by gravity and all such water shall, before it is delivered to any municipality, be properly filtered under direction of the commission."

¹⁹ Word "union" substituted for word "conservation."

union water district annually as of the first day of January a statement of the quantity so delivered for the calendar year last preceding.

If the quantity of water so delivered exceeds the aggregate quantity due to a municipality based on the rate of one hundred and twenty-five gallons per diem to each actual inhabitant thereof as shown in the petition herein provided, then a charge shall be made to such municipality for such excess and at such rate per million gallons as the commission shall determine. Payment for such excess by such municipality shall be made on or before July first of each calendar year to the commission. The commission shall annually apportion the whole sum so received among the municipalities in proportion to the amount which each has contributed to the cost of the union¹⁹ water works and shall promptly pay to each municipality its share thereof. Upon the completion and placing in operation of such water works, the commission shall employ such superintendent and assistants as it deems necessary for the proper and economical operation and administration thereof, and shall purchase and supply such materials and labor as are necessary in the maintenance, repair and operation. The commission shall cause an accurate account of all such expenses to be made and kept and shall report the same annually in the month of January for the calendar year last past.

The commission may from time to time, upon temporary loan certificates to be issued by it, borrow such sums as may be necessary to carry on such operation and maintenance. Such certificates shall bear interest at the rate of six per centum and shall be sold at not less than par and each municipality within a union water district shall be liable for its share of such expense in the proportion which it contributed to the original cost of the works. The annual amounts for such expenses, as apportioned by the commission, shall be paid by each municipality on the first day of March following the calendar year in which the said expenses were incurred. Interest to March first shall be included in the sum annually reported by the commission for such expense. A member of the board of trustees of a union water district shall be reimbursed by his municipality for his actual and necessary expenses and disbursements paid or incurred by him in the performance of his duties, upon vouchers audited and approved in the manner provided by law for other claims against such municipality.

§ 536. **Cost and expenses.** If the cost of a union¹⁹ water works exceeds the original estimate of the commission, the excess shall be borne among the municipalities according to the proportion which each contributed to the estimated cost and the same shall be raised by each municipality in a manner to be determined by it and the said sum paid over to the²⁰ commission. If the total cost of such construction shall be less than the cost as estimated and as raised by the municipalities, such excess shall be refunded to said municipalities by the²⁰ commission ratably as the same was

¹⁹ Word "union" substituted for word "conservation."

²⁰ Word "conservation" omitted.

contributed, and when so refunded, the same shall be used by said municipalities to retire the bonds issued by them or paid into the sinking fund for the retirement of said bonds.

All costs and expenses on the part of the state of New York, including the expense of engineering or other professional services incurred on account of the construction of union²¹ water works or the acquiring of lands and diversion rights shall be deemed a part of the cost thereof to be borne by the municipalities in a union water district, and shall be estimated as part of the expense and shall be paid from the funds raised by said municipalities for said purpose.

§ 537. **When other municipalities may participate; regulations.** Any municipality originally eligible to membership in a union water district and not a member thereof, may on a majority vote of the governing board or body of such municipality, or in case of a water district, the town board may apply by petition to the commission and to the trustees of such union water district to become a member of such union water district. If the commission and the board of trustees approve the petition the commission shall estimate and determine the cost of additional construction to provide for service of water to such municipality from the union²¹ water works, and shall likewise estimate and determine what share of the original cost thereof should be paid by such petitioning municipality and shall report the same to it and to the board of trustees. Such municipality shall thereupon in the manner hereinbefore provided in the original formation of a union water district determine whether it will issue bonds to cover the aggregate amount so reported and if the same is determined in the affirmative, bonds shall be issued and sold by such municipality and the proceeds raised and deposited and taxes imposed for the retirement of such bonds issued, in the same manner as in case of the original organization of a union water district. The proceeds of such bonds issued shall be deposited to the credit of the commission for the purposes of this act in the manner hereinbefore provided. Upon the deposit of such funds, such municipality shall thereupon become a member of such union water district and shall be supplied with water from such union²¹ water works.

The funds so deposited by said municipality shall be disposed of as follows: The estimated cost of the additional construction due to each municipality becoming a member of a union water district shall be deducted; the remainder shall be apportioned to each municipality in the district including the municipality thus last added thereto, in the proportion in which each has contributed to the cost of the union²¹ water works, and the commission shall as soon as possible pay to each municipality its share thereof. All sums so received by each municipality shall be applied by it to the payment of the principal of any outstanding bonds which it may have issued for the construction of union²¹ water works.

²¹ Word "union" substituted for word "conservation."

§ 538. **Sale of water by commission.** The commission, with the unanimous consent of the board of trustees of a union water district, may sell water by meter to water works companies or others, exclusive of municipal corporations, provided such water is for use or resale in territory outside that of any municipality in such district and provided that no additional construction connected with the union²¹ water works shall be necessitated by reason of such sale, except for the installation of meters to measure water so sold and for meter houses and for not exceeding five hundred feet of pipe lines for connections to each of such meters.

Contracts for such sale shall be limited to periods of five years from the time of making the same, and upon the expiration thereof, new contracts so limited may be made in like manner.

The receipts from such sales shall be applied, first, to the installation of meters and appurtenances above named, and the remainder shall be distributed among the municipalities which are members of the union water district, and in the proportion in which each has contributed to the cost of the union²¹ water works.

§ 539.²² **Definitions.** The term "chief executive officer of a municipality" as used in this article shall in the case of a city be deemed to refer to the mayor thereof; in case of a village, the village president; in case of a town, the supervisor; in case of a water district, the supervisor of the town within which such district or the major part thereof is located.

§ 4. Sections five hundred and forty-one, five hundred and forty-two, five hundred and forty-five and five hundred and forty-seven of said chapter, as amended²³ by chapter five hundred and fifty-one of the laws of nineteen hundred and twenty, are hereby amended to read as follows:

§§ 541,
542, 545,
547, as
added by
L. 1920,
ch. 531,
amended.

§ 541. **Municipal corporations must apply for approval of project.** Any publicly owned water supply project involving the construction of a reservoir on forest preserve lands must be submitted for approval to the²⁴ commission as provided in article nine of this chapter, and the procedure on such an application shall be as therein set forth except as to the additional requirements and further procedure required by this article.

§ 542. **Petition for approval of project and procedure thereon.** The petition for approval of such a project must state that it is desired to construct a reservoir on state owned forest preserve lands, giving a description of the location and extent of the lands to be occupied or flooded, and shall be accompanied by a map, based on accurate surveys, showing the boundaries of such land and the high flow line of the water to be impounded thereon. The public notice given pursuant to section five hundred and twenty-two of this chapter shall state that it is proposed to construct a reservoir on state owned lands within the

²¹ Word "union" substituted for word "conservation."

²² Section 539 is not amended by this act.

²³ Should read: "added."

²⁴ Word "conservation" omitted.

forest preserve. In addition to the determinations required by section five hundred and twenty-two of this chapter, the commission shall also determine whether the needs of the applicant for a supply of water are such as to require the proposed public use of said lands, whether the plans are such that unsanitary conditions will not be created thereby and whether the constitutional limitation as to the amount of such land that can be used for reservoir purposes will not be exceeded. If said application is approved, the commission shall apportion the expenses of the proposed project on the public and private property to be benefited thereby, such apportionment to be to the extent of the benefits received by such property; it shall also fix the amount to be paid to the state by the property and municipalities benefited. Such amount to be paid to the state to be computed as follows:

(1) The value of the state owned timber and other forest products to be removed during the construction of the project; such amounts to be due on the cutting of such timber or other products and such material to become the property of the applicant on the payment of such amount to the state. The commission may direct that the amount due be paid in one lump sum or may permit partial payments to be made in such amounts and at such times as may be specified.

(2) A charge of six per centum²⁵ per annum on the value of the state owned lands and rights used, unimproved and bare of timber; this value to be determined by the commission and to be redetermined by it at intervals of ten years from the date of approval of the application. The amount of this charge for any year to be due and payable on the first day of January of the succeeding year and to be computed from the day of the actual entry of the applicant or the commission on the state owned land, or any parcel thereof, for the purpose of beginning clearing or construction work.

(3) An annual charge, to be determined, re-determined and to be payable as provided in paragraph (2) above, which shall be fixed by the commission as a reasonable return to the state for its services rendered.

A statement of all these matters shall be included in the decision of the commission approving the application. All acts of the commission in connection with such a water supply application shall be reviewable by writ of certiorari as provided in section five hundred and twenty-two of this chapter.

§ 545. Supervision of construction and operation. All construction work which the commission is authorized to undertake by virtue of the provisions of this article shall be done under the direction of the²⁶ state engineer and surveyor. After the works shall have been constructed, they shall thereafter be maintained

²⁵ Formerly "four per centum."

²⁶ Remainder of sentence formerly read: "engineers in the division of waters of the conservation commission."

and operated for the benefit of the applicant by the ²⁷ state engineer and surveyor under the direction of the commission. All costs of such supervision and maintenance shall be paid by the applicant in the manner specified in section five hundred and forty-four of this article, except that the applicant shall not be charged with the salaries and expenses of such officials and regular employees of the state ²⁸ as, in addition to other duties, exercise only general supervision over the work done under the provisions of this article. For carrying out the provisions of this article the commission is authorized to employ such engineers and other persons as may in its judgment be necessary and to fix their compensation; such compensation shall be paid ²⁹ by the applicant.

§ 547. **Reservoir to be kept in repair.** The reservoir and appurtenant works shall be kept in safe, sanitary and serviceable condition and to this end shall be repaired, remodeled or additional work done thereon at the request of the applicant or as required by the ³⁰ commission. All such work shall be done by the commission at the expense of the applicant. If the applicant shall at any time determine that its needs for an additional supply of water require the enlargement of the reservoir in order that a greater quantity of water can be stored therein or drawn therefrom, a new water supply application shall be made to the ³⁰ commission asking for approval of the desired modifications of the original plans.

§ 5. This act shall take effect immediately.

CHAPTER 414

AN ACT to amend the stock corporation law, in relation to notice of election of directors.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-five of chapter sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to stock corporations, constituting chapter fifty-nine of the consolidated laws," as amended by chapter two hundred and sixty-seven of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

L. 1909,
ch. 61,
§ 25, as
amended by
L. 1918,
ch. 267,
amended.

§ 25. **Directors.** The directors of every stock corporation shall be chosen at the time and place fixed by the by-laws of the corporation by a plurality of the votes at such election. Each director shall be a stockholder unless otherwise provided in the certificate, or in a by-law adopted by a stockholders' meeting. Vacancies in

²⁷ Remainder of sentence formerly read: "said division of waters."

²⁸ Word "state" substituted for word "commission."

²⁹ Word "paid" substituted for word "borne."

³⁰ Word "conservation" omitted.

the board of directors shall be filled in the manner prescribed in the by-laws. Notice of the time and place of holding any election of directors shall be either published at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held, or delivered personally or mailed, not less than ten nor more than twenty days before the election, to each person who appears on the books of the corporation as a stockholder entitled to vote at said meeting;¹ if mailed, it shall be directed to a stockholder at his address as it appears on such books. The by-laws may require such notice to be published and also mailed or delivered as above provided. In the case of a domestic stock life insurance corporation no such election shall be valid unless a copy of such notice shall have been filed in the office of the superintendent of insurance at least ten days before the day of such election in addition to the publication service thereof, or both, required above. Whenever any of the directors of a domestic stock life insurance corporation shall have resigned and successors shall have been chosen pursuant to the provisions of the by-laws of the corporation, such successors shall not take office nor exercise the duties thereof until ten days after written notice of their election shall have been filed in the office of the superintendent of insurance. Policyholders of an insurance corporation shall be eligible to election as directors, whether or not they be stockholders. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

§ 2. This act shall take effect immediately.

CHAPTER 415

AN ACT to amend the public health law, in relation to vital statistics.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and eighty-seven of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as added by chapter six hundred and nineteen of the laws of nineteen hundred and thirteen, is hereby amended so as to read as follows:

§ 387. **Records to be kept by state commissioner of health.** The state commissioner of health shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this article, and shall prepare and issue such detailed instructions, not inconsistent with the regulations established

L. 1909,
ch. 49,
§ 387, as
added by
L. 1913,
ch. 619,
amended.

¹ Words "entitled to vote at said meeting" new.

by the public health council, as may be required to procure the uniform observance of its provision and the maintenance of a perfect system of registration; and no other blanks shall be used than those supplied by the state commissioner of health. He shall carefully examine the certificates received monthly from the registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory. All physicians, midwives, undertakers, or informants, and all other persons having knowledge of the facts, are hereby required to supply, upon a form provided by the state commissioner of health or upon the original certificate, such information as they may possess regarding any birth or death upon demand of the state commissioner of health, in person, by mail, or through the registrar; provided, that no certificate of birth or death, after its acceptance for registration by the registrar, and no other record made in pursuance of this article, shall be altered or changed in any respect otherwise than by amendments properly dated, signed and witnessed. The state commissioner of health shall arrange, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive and continuous typewritten or printed¹ index of all births and deaths registered; said index to be arranged alphabetically, in the case of deaths, by the names of decedents, and in the case of births, by the names of fathers or mothers if born out of wedlock. He shall inform all registrars what diseases are to be considered infectious, contagious, or communicable and dangerous to the public health, as decided by the public health council, in order that when deaths occur from such diseases proper precautions may be taken to prevent their spread.

§ 2. Section three hundred and eighty-nine² of chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws," as amended by chapter two hundred and thirteen of the laws of nineteen hundred and nineteen, is hereby amended so as to read as follows:

§ 289, as
amended by
L. 1919,
ch. 213,
amended.

§ 389. **District records to be kept by registrar.** Each registrar shall supply blank forms of certificates to such persons as require them. Each registrar shall carefully examine each certificate of birth or death when presented for record in order to ascertain whether or not it has been made out in accordance with the provisions of this act and the instructions of the state commissioner of health; and if any certificate of death is incomplete or unsatisfactory, it shall be his duty to call attention to the defects in the return, and he may³ withhold the burial or removal permit until such defects are corrected. All certificates, either of birth or death, shall be written legibly, in durable black ink, and no certificates shall be held to be complete and correct that

¹ Words "typewritten or printed" substituted for word "card."

² As added by L. 1913, ch. 619.

³ Words "he may" substituted for word "to."

does not supply all of the items of information called for therein, or satisfactorily account for their omission. If the certificate of death is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; provided, that in case the death occurred from some disease which is held by the public health council to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be issued by the registrar, except to an undertaker licensed under section two hundred and ninety-five of the public health law, under such conditions as may be prescribed by the state public health council. If a certificate of birth is incomplete, the local registrar shall immediately notify the informant, and require him to supply the missing items of information if they can be obtained. He shall number consecutively the certificates of birth and death, in two separate series, beginning with the number one for the first birth and the first death in each calendar year, and sign his name as registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each birth and each death certificate registered by him in a record book supplied by the state commissioner of health, to be preserved permanently in his office as the local record, in such manner as directed by the commissioner of health. Within ten days after receiving the certificate of any legitimate⁴ birth he shall furnish⁵ to the parents or guardian of the child a certificate of registration, to be made out on a form which shall be furnished by the state commissioner of health; except that the issuance of such certificate of registration may be postponed until the child's given name is also registered; and such certificate of registration shall be accepted by public authorities in this state for the purposes indicated in section three hundred and eighty-eight of this chapter in the same manner as certified copies of birth certificates; he shall also make a notation on his copy of the original birth certificate indicating the date of issuance of such certificate of registration. He shall, on the fifth day of each month, transmit to the state commissioner of health all original certificates registered by him for the preceding month. If no births or no deaths occurred in any month, he shall on the fifth day of the following month, report that fact to the state commissioner of health on a card provided for such purpose.

§ 3. This act shall take effect immediately.

⁴ Word "legitimate" new.

⁵ Word "furnish" substituted for word "mail."

CHAPTER 416

AN ACT to amend the highway law, in relation to county aid for construction and improvement of highways through incorporated villages.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein, after section three hundred and twenty-d, a new section, to be section three hundred and twenty-e, to read as follows:

§ 320-e
added to
L. 1909,
ch. 30.

§ 320-e. **County aid for connecting highways through villages.** The board of supervisors of a county may, upon the petition of the board of trustees of an incorporated village, provide for the construction or improvement of a highway or section thereof, through such village, at the joint expense of the county and village. The board of supervisors shall determine the portion of the cost of the construction and improvement of such highway to be borne by the county and the portion to be borne by the village. The portion to be borne by the village shall be a village charge and the residue shall be a county charge. The amount to be borne by the county shall be provided by tax, to be levied upon the taxable property of the county and collected in the same manner as other county charges and shall be paid into the county treasury and such tax shall not be reported as a basis for state aid as provided by section three hundred and twenty-b of this chapter. The board of supervisors may, in its discretion, appropriate and make immediately available from county funds, the portion of the moneys to be borne by the county. If it shall determine that sufficient moneys are not available, after defraying other county expenses, it may direct the county treasurer to borrow the same in anticipation of taxes or it may authorize the issue and sale of bonds therefor, to be issued and sold in the same manner as other county bonds. No such highway shall be so constructed and improved through a village, except to connect a highway improved pursuant to the provisions of sections three hundred and twenty, three hundred and twenty-a or three hundred and twenty-b of this chapter with a state or county highway, or county road, or to connect with another town highway improved pursuant to the provisions of section three hundred and twenty, three hundred and twenty-a or three hundred and twenty-b of this chapter. Such construction shall not be commenced until the portion to be borne by the village, as determined by the board of supervisors, has been deposited in the county treasurer's office of such county. The construction or improvement of a highway, as herein provided, shall be done under the supervision and direc-

tion of the district or county superintendent of highways or of a committee known as the highway officials of the county, to consist of the county superintendent, three members of the board to be appointed by the chairman and the supervisor of the town in which road is being improved. Payments therefor shall be made from time to time by the county treasurer upon the certificate of the district or county superintendent, approved by the chairman of the board of supervisors. A highway within a village constructed or improved as herein provided, shall be of the same width and type of construction as such town highways so improved by the aid of the county outside the village, unless a greater width or different type of construction is desired by the village. The additional expense caused by the increased width or different type or both, shall be borne wholly by the village. Any such highway, when completed, shall thereafter be repaired and maintained by the village wherein such highway is located in the same manner as all other village highways.

§ 2. This act shall take effect immediately.

CHAPTER 417

AN ACT to amend the insurance law, in relation to mutual automobile insurance companies.¹

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 33,
§ 321, as
added by
L. 1916,
ch. 14, and
amended
by L. 1920,
ch. 563,
amended.

Section 1. Section three hundred and twenty-one of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter fourteen of the laws of nineteen hundred and sixteen and last amended by chapter five hundred and sixty-three of the laws of nineteen hundred and twenty,² is hereby amended to read as follows:

§ 321. **Completion of organization.** No such declaration of intention and proposed charter shall be filed with the superintendent of insurance unless the persons filing the same shall previously have published twice a week for three successive weeks, or once a week for six successive weeks, in a public newspaper in the county in which its principal office is to be located a notice of their intention to form such a corporation. Upon receipt from the superintendent of insurance of a certified copy of the declaration of intention to form a corporation, the persons signing such declaration may open books to receive applications for membership therein. No such corporations shall issue any policies

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1919, ch. 390.

of insurance unless, and until, at least one thousand persons owning not less than one thousand automobiles have agreed to become members of such corporation, and have applied for, and agreed to take insurance therein, covering one or more of the kinds of insurance specified in section three hundred and twenty; nor until such persons have paid into the corporation at least five dollars each, amounting in the aggregate to at least five thousand dollars, as evidence of their good faith, such amounts to be credited against such members' first year's premiums; nor unless the annual premium cost of the insurance thus agreed to be taken shall be not less than forty thousand dollars at the rates charged by the company, nor until the president and secretary of the company shall have certified under oath to the superintendent of insurance that every such application for insurance is genuine, that each applicant has paid into the corporation at least five dollars, that the annual premium cost of the insurance agreed to be taken is not less than forty thousand dollars and that the applications received have been accepted by and are satisfactory to such corporation. If such officers shall make a false oath relative to the matters required to be certified, they shall be guilty of perjury. No certificate of authority shall be issued to such corporation until the superintendent of insurance shall be satisfied by an examination of the corporation or otherwise that the applications for membership are bona fide, each of which applications shall be in the form approved by the superintendent of insurance and shall state that the applicant agrees to accept and take the policy of insurance referred to therein within a period of thirty days from the date of the issuance to the corporation by the superintendent of insurance of a certificate of authority to transact the business of insurance specified in this article, provided that such certificate of authority is issued within six months from the date on which such application is received. If at any time it shall appear from an examination of such corporation, or from any statement filed by it, that the premium cost of the insurance on existing policies falls below forty thousand dollars, the superintendent of insurance shall issue an order directing the corporation, within a period of ninety days thereafter, to secure bona fide applications for insurance in the corporation, the premium cost of which insurance, together with the premium cost of existing policies, shall be not less than forty thousand dollars. In the event that such applications for insurance shall not be obtained within such period, the superintendent of insurance may, in his discretion, take the proceedings for the liquidation of such corporation under section sixty-three of this chapter.

The members of the corporation shall be policyholders therein, and when any member shall cease to be policyholder, he shall cease at the same time, to be a member of the corporation. A corporation, partnership, association or joint stock company may become a member of such insurance corporation, and may authorize any person to represent it in such insurance corporation, and such representative shall have all the rights of any individual

member; but neither the representative nor the said corporation, partnership, association or joint stock company shall be subject to any greater liability than as if an individual member.

Such corporation may borrow, or agree to repay, any reasonable sum or sums of money, not exceeding five thousand dollars, used to defray the expenses of its organization, or any sum or sums of money deemed necessary to be provided for the purposes of enabling it to comply with any requirement of the law. Any director, officer or member of such corporation, or any other person, firm or corporation, may loan or advance to such corporation any such sum or sums of money, upon an agreement that the same with interest at a rate not to exceed six per centum per annum shall be repaid only out of surplus earnings or profits of such corporation with the approval of the superintendent of insurance whenever, in his judgment, the financial condition of the corporation warrants it, except that such approval shall not be withheld if after such repayment shall be made, such corporation shall have and be in possession of a surplus equal to ten per centum or more of its gross annual premium income. Such surplus, however, shall be ascertained for the purposes of such repayment, upon the basis of the unearned premium reserve being charged at a sum equal to one hundred per centum of the unearned portion of the gross premiums charged to policyholders for the policies in force from their dates of issue. Any such sum or sums shall not form a part of the legal liabilities of the corporation, but until repaid all statements filed with the superintendent of insurance shall show the amount thereof.

§ 324, as
added by
L. 1916,
ch. 14, and
amended
by L. 1919,
ch. 390,
amended,

§ 2. Section three hundred and twenty-four of such chapter, as added by chapter fourteen of the laws of nineteen hundred and sixteen and amended by chapter three hundred and ninety of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 324. **Assets; liabilities; reserves; suspension; cancellation and reinstatement of certificate; expenses.** When an examination is made by the authority of the superintendent of insurance into the affairs of any such corporation, or any such corporation renders a statement to the insurance department, the superintendent shall allow as assets only such investments as are authorized by the existing laws of this state in relation to stock insurance companies at the date of such examination or of rendering such statement, but unpaid premiums on policies or renewals written within three months shall be admitted as available resources. In estimating the liabilities for the first five years after such corporation has commenced the business of writing insurance, there shall be charged a sum equal to eighty per centum of the unearned portion of the gross premiums charged to its policyholders for the policies in force from their dates of issue; during the sixth year such liability shall be computed at eighty-five per centum of the unearned portion of the gross premiums so charged, and thereafter such per centum shall be increased five per centum annually until the full one hundred per centum of such unearned

portion of the gross premiums is reached which per centum shall thereafter be maintained. In all other respects, such corporation shall be required to maintain the same reserves for the protection of policyholders, and others who may have a right of action directly against such corporation, as are required to be maintained by stock insurance corporations in relation to the same class of insurance. The superintendent of insurance may suspend or cancel the certificate issued by him, authorizing such corporation to transact such insurance business, at any time, when the assets of such corporation are insufficient to insure and secure the payment of its policy and other obligations; and the superintendent of insurance may reinstate, or renew, said certificate whenever, by assessment, or otherwise, said assets have been increased to a sum sufficient to insure and secure the payment of the policy and other obligations of such corporation. The expenses of management of such corporation shall not exceed in any one calendar year thirty-five per centum of its premium income in such year, but the expenses of management shall not be held to include taxes and expenses incurred in the investigation, adjustment and settlement of claims.

§ 3. Section three hundred and twenty-five of such chapter, as added by chapter fourteen of the laws of nineteen hundred and sixteen and amended by chapter three hundred and ninety of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 325, as
added by
L. 1916,
ch. 14, and
amended by
L. 1919,
ch. 390,
amended.

§ 325. **Dividends.** The board of directors may from time to time fix and determine the amount to be declared and paid as a dividend, upon policies expiring during each year after retaining sufficient sums to pay all outstanding policy and other obligations. Such dividends shall not take effect or be distributed until approved by the superintendent of insurance, after such investigation as he may deem necessary, but in no event shall such dividends be declared or paid unless the surplus of the corporation is ascertained for the purposes of such dividend upon the basis of the unearned premium reserve being charged at a sum equal to one hundred per centum of the unearned portion of the gross premiums charged to policyholders for the policies in force from their dates of issue.

§ 4. Section three hundred and twenty-six of such chapter, as added by chapter fourteen of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 326, as
added by
L. 1916,
ch. 14,
amended.

§ 326. **Assessments.** The corporation shall in its by-laws and policies fix the contingent mutual liability of the members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to twice the amount of, and in addition to the cash premium written in the policy. If the corporation is not possessed of cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, as estimated or determined, it shall make an assessment for the amount needed to pay such losses and expenses upon the members liable to assess-

ment therefor, in proportion to their several liability. Every member shall be liable to pay and shall pay his proportionate part of any assessment which may be laid by the corporation in accordance with law and his contract, covering any deficiency (excess of liabilities over admitted assets) incurred while he was a member if he is notified of such assessment within one year after the expiration or cancellation of his policy. Each member's share of the deficiency incurred in any year for which an assessment is made shall be determined by applying to the premium earned on the member's policy during such year the ratio of the total deficiency for the year to the total earned premiums of that year subject to assessment. All proposed premium assessments shall be filed in the insurance department and shall not take effect until approved by the superintendent of insurance, after such investigation as he may deem necessary. All funds of the corporation and the contingent liability of the members thereof, shall be available for the payment of any liability of the corporation.

§ 327, as
added by
L. 1916,
ch. 14,
amended.

§ 5. Section three hundred and twenty-seven of such chapter, as added by chapter fourteen of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 327. **Reports to and examinations by superintennent of insurance; filing of policy forms.** Every such corporation shall make reports to the superintendent of insurance at the same times and in the same manner as are required from stock insurance companies transacting the same kind of business, and the superintendent of insurance may examine into the affairs of such corporation at any time, either personally or by any duly authorized examiner appointed by him, and the superintendent of insurance must make such an examination into the affairs of said corporation at least once in every two years.

No such corporation shall issue any policy of insurance until a copy of the form thereof has been filed with the superintendent of insurance.

§ 341, as
added by
L. 1916,
ch. 18, and
amended
by L. 1920,
ch. 563,
amended.

§ 6. Section three hundred and forty-one of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen and last amended by chapter five hundred and sixty-three of the laws of nineteen hundred and twenty,³ is hereby amended to read as follows:

§ 341. **Completion of organization.** No such declaration of intention and proposed charter shall be filed with the superintendent of insurance unless the persons filing the same shall previously have published twice a week for three successive weeks, or once a week for six successive weeks, in a public newspaper in the county in which its principal office is to be located a notice of their intention to form such a corporation. Upon receipt of a certified copy of the certificate of incorporation from the superintendent of insurance, the persons signing such certificate may open books to receive applications for membership therein. No such corporation shall issue any policies of insurance unless, and until, at least one thousand persons owning

³ Previously amended by L. 1919, ch. 389.

at least one thousand automobiles have agreed to become members of such corporation, and have applied for, and agreed to take, insurance therein, covering one or more of the kinds of insurance specified in section three hundred and forty; nor until such persons have paid into the corporation at least five dollars each amounting in the aggregate to at least five thousand dollars, as evidence of their good faith, such amounts to be credited against such members' first year's premiums; nor unless the annual premium cost of the insurance thus agreed to be taken shall be not less than one hundred thousand dollars at the rates charged by the company, nor until the president and secretary of the company shall have certified under oath to the superintendent of insurance that every such application for insurance is genuine, that each applicant has paid into the corporation at least five dollars, that the annual premium cost of the insurance agreed to be taken is not less than one hundred thousand dollars and that the applications received have been accepted by and are satisfactory to such corporation. If such officers shall make a false oath relative to the matters required to be certified, they shall be guilty of perjury. No certificate of authority shall be issued to such corporation until the superintendent of insurance shall be satisfied by an examination of the corporation or otherwise that the applications for membership are bona fide, each of which applications shall be in the form approved by the superintendent of insurance and shall state that the applicant agrees to accept and take the policy of insurance referred to therein within a period of thirty days from the date of the issuance to the corporation by the superintendent of insurance of a certificate of authority to transact the business of insurance specified in this article, provided that such certificate of authority is issued within six months from the date on which such application is received. If at any time it shall appear from an examination of such corporation, or from any statement filed by it, that the premium cost of the insurance on existing policies falls below one hundred thousand dollars, the superintendent of insurance shall issue an order directing the corporation, within a period of ninety days thereafter, to secure bona fide applications for insurance in the corporation, the premium cost of which insurance, together with the premium cost of existing policies, shall be not less than one hundred thousand dollars. In the event that such applications for insurance shall not be obtained within such period, the superintendent of insurance may, in his discretion, take the proceedings for the liquidation of such corporation under section sixty-three of this chapter.

The members of the corporation shall be policyholders therein, and when any member shall cease to be a policyholder, he shall cease at the same time to be a member of the corporation. A corporation, partnership, association or joint stock company, may become a member of such insurance corporation, and may authorize any person to represent it in such insurance corporation, and such representative shall have all the rights of any indi-

vidual member; but neither the representative nor the said corporation, partnership, association or joint stock company shall be subject to any greater liability than as if an individual member.

Such corporation may borrow, or agree to repay, any reasonable sum or sums of money, not exceeding five thousand dollars, used to defray the expenses of its organization, or any sum or sums of money deemed necessary to be provided for the purposes of enabling it to comply with any requirement of the law. Any director, officer or member of such corporation, or any other person, firm or corporation, may loan or advance to such corporation any such sum or sums of money, upon an agreement that the same with interest at a rate not to exceed six per centum per annum shall be repaid only out of surplus earnings or profits of such corporation with the approval of the superintendent of insurance whenever, in his judgment, the financial condition of the corporation warrants it, except that such approval shall not be withheld if after such repayment shall be made, such corporation shall have and be in possession of a surplus equal to ten per centum or more of its gross annual premium income. Such surplus, however, shall be ascertained for the purposes of such repayment, upon the basis of the unearned premium reserves being charged at a sum equal to one hundred per centum of the unearned portion of the gross premiums charged to policyholders for the policies in force from their dates of issue. Any such sum or sums shall not form a part of the legal liabilities of the corporation, but until repaid all statements filed with the superintendent of insurance shall show the amount thereof.

§ 344, as
added by
L. 1916,
ch. 13, and
amended
by L. 1919,
ch. 359,
amended.

§ 7. Section three hundred and forty-four of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen and amended by chapter three hundred and eighty-nine of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 344. **Assets; liabilities; reserves; suspension; cancellation and reinstatement of certificates; expenses.** When an examination is made by the authority of the superintendent of insurance into the affairs of any such corporation, or any such corporation renders a statement to the insurance department, the superintendent shall allow as assets only such investments as are authorized by the existing laws of this state in relation to stock insurance companies at the date of such examination or of rendering such statement, but unpaid premiums on policies or renewals written within three months shall be admitted as available resources. In estimating the liabilities for the first five years after such corporation has commenced the business of writing insurance, there shall be charged a sum equal to eighty per centum of the unearned portion of the gross premiums charged to its policyholders for the policies in force from their dates of issue; during the sixth year such liability shall be computed at eighty-five per centum of the unearned portion of the gross premiums so charged, and thereafter such per centum shall be increased five per centum

annually until the full one hundred per centum of such unearned portion of the gross premiums is reached which per centum shall thereafter be maintained. Such corporation shall also be required to maintain a reserve for outstanding losses on the same basis as is required of stock insurance companies in relation to the same classes of insurance except that until the total premium income of such corporation exceeds the sum of five hundred thousand dollars per annum, the reserve for all liability policies shall be computed as follows:

1. For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be fifty per centum of the earned liability premiums of each of such three years less all loss and loss expense payments made under liability policies written in the corresponding years. After the year nineteen hundred and twenty-two for existing corporations and after the first full calendar year for all corporations hereafter organized, such fifty per centum shall be increased one per centum for each succeeding calendar year over the percentage for the preceding calendar year until a percentage of fifty-five per centum is reached. After the year during which such percentage is carried such loss reserve shall be sixty per centum of the earned premium.

2. For all liability claims under policies written more than three years prior to the date as of which the statement is made, the reserve shall be computed by estimating the amounts for each individual claim.

Whenever in the judgment of the superintendent of insurance the liability loss reserves of any such corporation, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such corporation to maintain additional reserves based upon estimated individual claims or otherwise.

The superintendent of insurance may suspend or cancel the certificate issued by him, authorizing such corporation to transact such insurance business, at any time when the assets of such corporation are insufficient to insure and secure the payment of its policy and other obligations, and he may reinstate or renew said certificate whenever by assessment or otherwise said assets have been increased to a sum sufficient to insure and secure the payment of the policy and other obligations of such corporation. The expenses of management of any such corporation shall not exceed in any one calendar year thirty per centum of its premium income in such year, but the expenses of management shall not be held to include taxes and expenses incurred in the investigation, adjustment and settlement of claims.

§ 8. Section three hundred and forty-five of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen and amended by chapter three hundred and eighty-nine of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 345. **Dividends.** The board of directors may from time to time fix and determine the amount to be declared and paid as a dividend, upon policies expiring during each year, after retain-

§ 345, as
added by
L. 1916,
ch. 13, and
amended by
L. 1919,
ch. 389,
amended.

ing sufficient sums to pay all outstanding policy and other obligations. Such dividends shall not take effect or be distributed until approved by the superintendent of insurance, after such investigation as he may deem necessary, but in no event shall such dividends be declared or paid unless the surplus of the corporation is ascertained for the purposes of such dividend upon the basis of the unearned premium reserve being charged at a sum equal to one hundred per centum of the unearned portion of the gross premiums charged to policyholders for the policies in force from their dates of issue.

§ 346, as
added by
L. 1916,
ch. 12,
amended.

§ 9. Section three hundred and forty-six of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 346. **Assessments.** The corporation shall in its by-laws and policies fix the contingent mutual liability of the members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to twice the amount of, and in addition to, the cash premium written in the policy. If the corporation is not possessed of cash funds above its unearned premium sufficient for the payment of the incurred losses and expenses, as estimated or determined, it shall make an assessment for the amount needed to pay such losses and expenses upon the members liable to assessment therefor, in proportion to their several liability. Every member shall be liable to pay and shall pay his proportionate part of any assessment which may be laid by the corporation in accordance with law and his contract, covering any deficiency (excess of liabilities over admitted assets) if he is notified of such assessment within one year after the expiration or cancellation of his policy. Each member's share of the deficiency for which an assessment is made shall be determined by applying to the premium earned on the member's policy during the period to be covered by the assessment the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to assessment. All proposed premium assessments shall be filed in the insurance department and shall not take effect until approved by the superintendent of insurance, after such investigation as he may deem necessary. All funds of the corporation and the contingent liability of the members thereof shall be available for the payment of any liability of the corporation.

§ 347, as
added by
L. 1916,
ch. 13,
amended.

§ 10. Section three hundred and forty-seven of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 347. **Reports to and examinations by superintendent of insurance, filing of policy forms.** Every such corporation shall make reports to the superintendent of insurance at the same times and in the same manner as are required from stock insurance companies transacting the same kind of business, and the superintendent of insurance may examine into the affairs of such corporation at any time, either personally or by any duly author-

ized examiner appointed by him, and the superintendent of insurance must make such an examination into the affairs of said corporation at least once in every two years.

No such corporation shall issue any policy of insurance until a copy of the form thereof has been filed with the superintendent of insurance.

§ 11. This act shall take effect immediately.

CHAPTER 418

AN ACT to amend the insurance law, in relation to approval of rates of mutual automobile insurance companies.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article ten-a of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter fourteen of the laws of nineteen hundred and sixteen, is hereby amended by adding thereto a new section, to be section three hundred and twenty-nine, to read as follows:

§ 329. **Approval of rates.** Every corporation organized or admitted to do business under this article shall file with the superintendent of insurance its schedule of rates and rules affecting such rates, and shall issue policies only at such rates, and subject to such rules affecting such rates, as have been first approved as to adequacy by the superintendent of insurance, provided, that the minimum rates required to be charged shall be uniform for all said companies. The superintendent of insurance may withdraw his approval of any rate or rule affecting such rate whenever in his opinion such rate or rule affecting such rate is inadequate to provide the necessary reserves.

§ 2. Article ten-b of such chapter, as added by chapter thirteen of the laws of nineteen hundred and sixteen, is hereby amended by adding thereto a new section, to be section three hundred and fifty, to read as follows:

§ 350. **Approval of rates.** Every corporation organized or admitted to do business under this article shall file with the superintendent of insurance its schedule of rates and rules affecting such rates, and shall issue policies only at such rates, and subject to such rules affecting such rates, as have been first approved as to adequacy by the superintendent of insurance, provided, that the minimum rates required to be charged shall be uniform for all said companies. The superintendent of insurance may withdraw his approval of any rate or rule affecting such rate whenever in his opinion such rate or rule affecting such rate is inadequate to provide the necessary reserves.

§ 3. This act shall take effect immediately.

CHAPTER 419

AN ACT to amend the insurance law, in relation to the reinsurance by domestic life companies of outstanding business in foreign countries.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 33,
§ 22, as
added by
L. 1919,
ch. 388,
and
amended
by L. 1921,
ch. 707,
amended.

Section 1. Section twenty-two of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations," as added by chapter three hundred and eighty-eight of the laws of nineteen hundred and nineteen and last amended by chapter seven hundred and seven of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 22. **Reinsurance.** Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks, other than life, assumed by it; but such reinsurance, unless effected (a) with an insurer authorized to issue policies in this state, or (b) with an insurer similarly authorized in another state, territory or district of the United States and showing the same standards of solvency and meeting the same statutory and departmental regulations which would be required or prescribed of such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the taxes to be paid by or the reserve or other liability to be charged to the ceding insurer; provided that nothing in this section shall be construed to permit to a ceding insurer any reduction of taxes through reinsurance effected with an insurer not authorized to issue policies in this state. In case such reinsurance is effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it calculated in the same way; provided, that when an insurer authorized to issue policies in this state shall reinsure any marine risks with a corporation incorporated outside of the United States but admitted to transact business in this state, other than through its attorney, manager or agent in the United States, under a contract which provides that losses thereunder shall not be collectible out of, nor chargeable against, the assets of said corporation in the United States, the ceding insurer, as to the portion of such marine risks so ceded, shall be charged with unearned premium liability and shall report and pay taxes

¹ Previously amended by L. 1920, ch. 563.

thereon but the insurer to which the business is ceded shall not be charged with unearned premium liability nor required to report or pay taxes on account of such marine risks, anything in this chapter to the contrary notwithstanding.

Any contract of reinsurance, other than life, whereby an insurer cedes more than seventy-five per centum of the total amount of its outstanding risks shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to approval in writing by the superintendent of insurance of this state.

Every life insurance corporation doing business in this state may reinsure any part or all of any life risk in any other insurance corporation, but shall only receive credit for the reserve on any policy covering a risk reinsured, if the reinsuring corporation is authorized to transact business in this state and may also receive credit for taxes on the premium paid on any such policy, provided that no domestic life insurance company shall reinsure its whole risk on any individual life except by permission of the superintendent of insurance. ²And provided further, that any domestic life insurance corporation which has discontinued the issuance of new business in a foreign country may, subject to the written approval of the superintendent of insurance, reinsure all or part of its business outstanding in such country in any solvent insurance company duly authorized to transact business therein, subject to such conditions for the guarantee of the performance of the reinsurance agreement, as may be approved by the superintendent, and such domestic life insurance corporation shall thereupon be relieved from charging as liabilities in its annual statement the reserves and other liabilities pertaining to the business so reinsured. Nothing in this chapter contained shall be construed as permitting the reinsurance of a life insurance corporation having over two hundred and fifty million dollars of insurance outstanding and in force.

The superintendent of insurance shall require schedules of reinsurance to be filed by every insurer at the time of making the annual report and at such other times as he may direct.

Nothing in this section shall be deemed to permit the ceding insurer to receive through the cession of the whole of any risk or risks any advantage in respect to its unearned premium reserve if an insurer other than life, or, if a life company, in the net value of its policies involving life contingencies that would reduce the same below the actual amount thereof.

For the purposes of this section, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies" shall be deemed to include the words "make contracts of reinsurance."

§ 2. This act shall take effect immediately.

² Following sentence new.

CHAPTER 420

AN ACT to amend the insanity law, in relation to commitment and transfer of insane veterans of the world war.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 32,
§ 87, as
amended
by L. 1919,
ch. 380,
amended,

Section 1. Section eighty-seven of chapter thirty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the insane, constituting chapter twenty-seven of the consolidated laws," as last amended by chapter three hundred and eighty of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

§ 87. Duties of local officers in regard to their insane. All county superintendents of the poor, overseers of the poor, health officers and other city, town or county authorities, having duties to perform relating to the poor, are charged with the duty of seeing that all poor and indigent insane persons within their respective municipalities, are timely granted the necessary relief conferred by this chapter. The poor officers or authorities above specified, except in the city of New York and in the county of Albany, shall notify the health officer of the town, city or village of any poor or indigent insane or apparently insane person within such municipality whom they know to be in need of the relief conferred by this chapter. When so notified, or when otherwise informed of such fact, the health officer of the city, town or village, except in the city of New York and the county of Albany, where such insane or apparently insane person may be, shall see that proceedings are taken for the determination of his mental condition and for his commitment to a state hospital. Such health officer may direct the proper poor officer to make an application for such commitment, and, if a qualified medical examiner, may join in making the required certificate of lunacy. When so directed by such health officer it shall be the duty of the said poor officer to make such application for commitment. When notified or informed of any poor or indigent insane or apparently insane person in need of the relief conferred by this chapter, such health officer shall provide for the proper care, treatment and nursing of such person, as provided by law and the rules of the commission, pending the determination of his mental condition and his commitment and until the delivery of such insane person to the attendant sent to bring him to the state hospital, as provided in his chapter. In the boroughs of Manhattan and the Bronx, in the city of New York, it shall be the duty of the trustees of Bellevue and allied hospitals, and in the boroughs of Brooklyn, Queens and Richmond, in the city of New York and

¹ Previously amended by L. 1910, ch. 608; L. 1912, ch. 121.

also in the county of Albany, it shall be the duty of the commissioner of public charities to see that all poor and indigent insane or apparently insane persons in such boroughs or county, respectively, are properly cared for and treated.

It shall also be the duty of such trustees of Bellevue and allied hospitals, or the commissioner of public charities of the city of New York or the county of Albany, to see that proceedings are taken for the determination of the mental condition of any such person in the boroughs or county mentioned, who comes under their observation or is reported to them as apparently insane, and, when necessary, to see that proceedings are instituted for the commitment of such person to an institution for the care of the insane; provided that such report is made by any person with whom such alleged insane person may reside, or at whose house he may be, or by the father, mother, husband, wife, brother, sister, or child of any such person, or next of kin available, or by any duly licensed physician, or by any peace officer, or by a representative of an incorporated society doing charitable or philanthropic work. When the trustees of Bellevue and allied hospitals are thus informed of an apparently insane person, residing in the boroughs of Manhattan or the Bronx, or when the commissioner of public charities of the city of New York is thus informed of an apparently insane person residing in the boroughs of Brooklyn, Queens or Richmond, it shall be the duty of these authorities, respectively, to send a nurse or a medical examiner in lunacy, attached to the psychopathic wards of their respective institutions, or both, to the place where the alleged insane person resides or is to be found. If, in the judgment of the chief resident alienist of the respective psychopathic wards or of the medical examiner thus sent, the person is in immediate need of care and treatment or observation for the purpose of ascertaining his mental condition, he shall be removed to such psychopathic ward for a period not to exceed ten days, and the person or persons most nearly related to him, so far as the same can be readily ascertained by such trustees, or commissioners, shall be notified of such removal.

When an order of commitment has been made as provided in this chapter, such health officer, or, in the city of New York and in the county of Albany, the authorities above specified in their respective boroughs or county, shall see that such insane persons are, without unnecessary delay, transferred to the proper institutions provided for their care and treatment as the wards of the state. Before sending a person to any such institution, they shall see that he is in a state of bodily cleanliness and comfortably clothed with suitable or new clothing, in accordance with the regulations prescribed by the commission. Each patient shall be sent to the state hospital, within the district embracing the county from which he is committed, except that the commission may, in its discretion, direct otherwise, but private or public insane patients, for whom homeopathic care and treatment may be desired by their relatives, friends or guardians, may be com-

mitted to the Middletown state homeopathic hospital, or the Gowanda state homeopathic hospital, from any of the counties of the state, in the discretion of the judge granting the order of commitment; and the hospital to which any patient is ordered to be sent shall, by and under the regulations made by such commission, send a trained attendant to bring the patient to the hospital. Each female committed to any institution for the insane shall be accompanied by a female attendant, unless accompanied by her father, brother, husband or son. The commission may, by order, direct that any person it deems unsuitable therefor shall not be so employed or act as such attendant. After the patient has been delivered to the proper officers of the hospital, the care and custody of the municipality from which he is sent shall cease.

In no case shall any insane person be confined in any other place than a state hospital or duly licensed institution for the insane, for a period longer than ten days, nor shall such person be committed as a disorderly person to any prison, jail or lockup for criminals. Except in the city of New York and the county of Albany, the health officer of the town, village or city wherein an insane or alleged insane person may be shall see that such person is cared for in a place suitable for the comfortable, safe and humane confinement of such person, pending the determination of the question of his sanity, and until his transfer to a state hospital or some other proper institution for the insane as provided in this chapter. Such person shall not be confined in any such place without an attendant in charge of him, and the said health officer shall select some suitable person to act as such attendant.

The proper authorities of any such town, city or county may provide a permanent place for the reception and temporary confinement, care and nursing of insane or alleged insane persons which shall conform in all respects to the rules and requirements of the commission; all poor and indigent insane persons received at any such place for investigation of their mental condition or pending commitment and transfer to a state hospital shall be maintained therein at the expense of such town, city or county. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be arrested by any peace officer and confined in some safe and comfortable place until the question of his sanity be determined, as prescribed by this chapter. The officer making such arrest shall immediately notify the health officer of the town, village or city, except in the city of New York and in the county of Albany, who shall forthwith take proper measures for the determination of the question of the insanity of such person, and for his proper care and treatment as provided in this section, pending his transfer to an institution for the insane.

Whenever in the city of New York an information is laid before a magistrate that a person is apparently insane the magistrate must issue a warrant directed to the sheriff of the county in which the information is made, or any marshal or policeman of

the city of New York, reciting the substance of the information, and commanding the officer forthwith to arrest the person alleged to be insane, and bring him before the magistrate's court out of which the warrant was issued. If upon arraignment it appears to the magistrate presiding that the person so arraigned before him is apparently insane it shall be the duty of the magistrate, if such information is laid in the boroughs of Manhattan and the Bronx, to commit such apparently insane person to the care and custody of the board of trustees of Bellevue and allied hospitals at Bellevue hospital, and therein kept in a safe and comfortable place until the question of his sanity be determined as prescribed by this chapter, and in the boroughs of Brooklyn, Queens and Richmond the said magistrate shall commit such apparently insane person to the care of the commissioner of public charities who shall keep such person in a safe and comfortable place until the question of his sanity be determined as herein prescribed. Whenever in the city of New York a person is committed as apparently insane as above provided it shall be the duty of the board of trustees of Bellevue and allied hospitals or the commissioner of public charities, as the case may be, to forthwith take proper measures for the determination of the question of the insanity of such person.

* When a veteran of the world war is arraigned according to law before a magistrate in the city of New York as an alleged insane person and it appears that the veteran is apparently insane, the magistrate shall, upon the request of the director of the United States veterans' bureau or his accredited representative, or person authorized by law to make such a request, commit the alleged insane veteran for examination for a period not exceeding ten days direct to the Veterans' Hospital, Kingsbridge road and Sedgwick avenue, borough of the Bronx, New York city. Such commitment shall be for the purpose of observation and for rendering of such care and treatment as shall be deemed for the best interests of the person so committed.

Veterans of the world war who have been duly committed to a state hospital for the insane within the state of New York prior to the passage of this act and who may be either actually confined in a state hospital for the insane within the state of New York, or on parole, may be transferred to the said Veterans' Hospital, borough of the Bronx, New York city, by order of the state hospital commission.

§ 2. This act shall take effect immediately.

* Remainder of section new.

CHAPTER 421

AN ACT to amend the labor law, in relation to explosives.¹

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922,
ch. 50,
art. 16,
amended

Section 1. Article sixteen of chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended to read as follows:

ARTICLE 16.

EXPLOSIVES.

Section 450. Application of article.

451. Definitions.

452. Encasement.

453. Storage.

454. Construction of magazines.

455. Magazine precautions.

456. Location of magazines.

*

458. Licenses for storage.

459. Transportation.

460. Records of sales or gifts.

461. Testing of firearms.

462. Enforcement in cities.

463. Non-compliance or violation.

§ 450. Application of article. 1. This article shall apply to the manufacture, possession, storage, transportation, sale or gift of explosives as defined in subdivision one of section four hundred and fifty-one.

2. This article shall not apply to cities having more than one million inhabitants, to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission, nor to the transportation or use of blasting explosives for agricultural purposes in quantities not exceeding two hundred pounds at any one time, nor to any explosives in quantities not exceeding five pounds at any one time.

§ 451. Definitions; whenever used in this article: 1. "Explosive" or "explosives" means any chemical compound or any mechanical mixture containing any oxidizing and combustible

* So in original [Section 457 omitted.]

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects upon life, limb or contiguous objects, but does not mean gasoline, kerosene, naphtha, turpentine, benzine, colloided nitrocellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitrocellulose and wet nitro starch containing twenty per centum or more moisture or wet picric acid containing or being in ten per centum or more moisture. Manufactured articles such as fixed ammunition for small arms, fire crackers, safety fuse, matches, et cetera, shall not be held to be explosives when the individual units contain explosives in such limited quantity, of such nature or in such packing that it is impossible to produce a simultaneous or a destructive explosion of such units, to the injury of life, limb or property.

2. "Highway" means any public street or public highway.

3. "Railroad" or "railway" means any public steam, electric or other railroad which carries passengers for hire, but shall not include auxiliary tracks, spurs and sidings installed and primarily used in serving any mine, quarry or plant.

4. "Building" means and includes only any building regularly occupied in whole or in part as a habitation for human beings, and any church, school house, railway station or other building where people are accustomed to assemble, but does not mean or include any of the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

5. "Factory building" means any building or other structure in which the manufacture of explosives or any part of the manufacture is carried on.

6. "Magazine" means any building or other structure, other than a factory building, used to store explosives.

7. "Efficient barricade" means an artificial mound, a properly revetted wall of earth not less than three feet thick or natural features of the ground of such height that any straight line drawn from the top of any side wall of the factory building or magazine to any part of a building or any point twelve feet above the center of a railroad or highway to be protected will pass through such intervening barricade.

§ 452. **Encasement.** Except only in a factory building or upon its premises and except while being used, no person shall possess or store explosives unless such explosives are completely enclosed or encased in tight metal, wooden or fibre containers. A person having an explosive in his possession or control shall under no circumstances, permit any grains or particles of it to remain on the outside of, or about, its container. Every container shall be plainly marked with the name of the explosive contained therein.

§ 453. **Storage.** Except while being transported or used or

while in the custody of a common carrier awaiting shipment or delivery to a consignee during the time permitted by federal law, all explosives shall be stored in factory buildings or magazines in accordance with sections four hundred and fifty-five to four hundred and fifty-eight, inclusive. Not more than three hundred thousand pounds shall be stored in any factory building or magazine at any one time.

§ 454. **Construction of magazines.** Magazines shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance.

2. **Blasting caps, detonating or fulminating caps or detonators,** in quantities of one thousand or over, shall be kept or stored in a separate magazine and a certificate of compliance must be obtained from the commissioner.

§ 455. **Magazine precautions.** The doors of magazines shall be kept closed and locked at all times, except when opened for storage or removal of explosives by persons lawfully entitled to enter the same. Sufficient openings shall be provided for ventilation and shall be screened to prevent the entrance of sparks, except that magazines containing only black powder may be constructed without openings for ventilation. Upon each end of such magazine, above the side walls thereof, or upon its barricade, there shall at all times be kept conspicuously posted a sign with the words "Magazine — Explosives — Dangerous" legibly printed thereon in letters not less than six inches high. No matches or fire of any kind shall at any time be permitted in any magazine. No blasting caps or other detonating or fulminating caps or detonators shall be kept or stored in any magazine in which other explosives are kept or stored. No package of explosives shall at any time be opened within fifty feet of any magazine, nor shall any explosive be kept therein except in the original containers. Except for testing purposes in accordance with section four hundred and sixty-one, no person shall discharge firearms within five hundred feet of a magazine or factory building, or at or against any such building or magazine.

§ 456. **Location of magazines.** A magazine in which more than five thousand pounds of explosives are stored must be separated at least two hundred feet from any other magazine. The quantity of explosives that may be stored in any factory building or magazine shall depend upon its distances from the nearest building, railroad and highway. The distances that a quantity of explosives given in column one of the following table may be stored from the nearest building, railroad, and highway are set opposite to it in columns two, three and four. All the above distances may be reduced one-half when the magazine, building, railroad or highway to be protected is effectually screened from the factory building or magazine by an efficient barricade as defined in subdivision seven of section four hundred and fifty-one:

QUANTITY AND DISTANCE TABLE

Column 1				Column 2	Column 3	Column 4
Quantity that may be kept or stored from nearest building, highway or railroad				Distance from nearest building	Distance from nearest railway	Distance from nearest highway
Blasting and electric blasting caps		Other explosives				
Number over	Number not over	Pounds over	Pounds not over	Feet	Feet	Feet
1,000	5,000	.....	.....	30	20	10
5,000	10,000	.....	.....	60	40	20
10,000	20,000	.....	.....	120	70	35
20,000	25,000	.....	50	145	90	45
25,000	50,000	50	100	240	140	70
50,000	100,000	100	200	360	220	110
100,000	150,000	200	300	520	310	150
150,000	200,000	300	400	640	380	190
200,000	250,000	400	500	720	430	220
250,000	300,000	500	600	800	480	240
300,000	350,000	600	700	860	520	260
350,000	400,000	700	800	920	550	280
400,000	450,000	800	900	980	580	300
450,000	500,000	900	1,000	1,020	610	310
500,000	750,000	1,000	1,500	1,060	640	320
750,000	1,000,000	1,500	2,000	1,200	720	360
1,000,000	1,500,000	2,000	3,000	1,300	780	390
1,500,000	2,000,000	3,000	4,000	1,420	850	420
2,000,000	2,500,000	4,000	5,000	1,500	900	450
2,500,000	3,000,000	5,000	6,000	1,560	940	470
3,000,000	3,500,000	6,000	7,000	1,610	970	480
3,500,000	4,000,000	7,000	8,000	1,660	1,000	500
4,000,000	4,500,000	8,000	9,000	1,700	1,020	510
4,500,000	5,000,000	9,000	10,000	1,740	1,040	520
5,000,000	7,500,000	10,000	15,000	1,780	1,070	530
7,500,000	10,000,000	15,000	20,000	1,950	1,170	580
10,000,000	12,500,000	20,000	25,000	2,110	1,270	630
12,500,000	15,000,000	25,000	30,000	2,260	1,360	680
15,000,000	17,500,000	30,000	35,000	2,410	1,450	720
17,500,000	20,000,000	35,000	40,000	2,550	1,530	760
.....	.....	40,000	45,000	2,680	1,610	800
.....	.....	45,000	50,000	2,800	1,680	840
.....	.....	50,000	55,000	2,920	1,750	880
.....	.....	55,000	60,000	3,030	1,820	910
.....	.....	60,000	65,000	3,130	1,880	940
.....	.....	65,000	70,000	3,220	1,940	970
.....	.....	70,000	75,000	3,310	1,990	1,000
.....	.....	75,000	80,000	3,390	2,040	1,020
.....	.....	80,000	85,000	3,460	2,080	1,040
.....	.....	85,000	90,000	3,520	2,120	1,060
.....	.....	90,000	95,000	3,580	2,150	1,080
.....	.....	95,000	100,000	3,630	2,180	1,090
.....	.....	100,000	125,000	3,670	2,200	1,110
.....	.....	125,000	150,000	3,800	2,280	1,140
.....	.....	150,000	175,000	3,930	2,360	1,180
.....	.....	175,000	200,000	4,060	2,440	1,220
.....	.....	200,000	225,000	4,190	2,520	1,260
.....	.....	225,000	250,000	4,310	2,590	1,300
.....	.....	250,000	275,000	4,430	2,660	1,340
.....	.....	275,000	300,000	4,550	2,730	1,380

§ 458. Licenses for storage. 1. Application for certificate. Before storing explosives every person shall report to the commissioner, on blanks to be furnished by him:

- a. The location or proposed location of the magazine;
- b. The kind and maximum quantity of explosive stored or intended to be stored therein;
- c. The distance or intended distance of the magazine from the nearest magazine, building, railroad and highway.

2. Issue of certificate. Following receipt of such report the commissioner shall inspect the magazine. If he finds that the magazine is located and constructed in accordance with this article, he shall determine the quantity of explosives that may be stored in such magazine according to the quantity and distance table of section four hundred and fifty-six and shall issue a certificate to the applicant showing compliance with this article and the maximum quantity of explosives that may be stored in the magazine. The certificate of compliance shall be posted in the magazine.

3. Modification or cancellation of certificate. Certificate of compliance shall be valid until cancelled for cause as hereinafter provided: Whenever by reason of changes in the physical conditions surrounding said magazine, such as the erection of buildings, operation of railways or opening of highways nearer said magazine, the commissioner shall modify or cancel the certificate in accordance with the changed conditions; whenever any person to whom certificate has been issued fails for thirty days to pay the annual license fee; whenever any person to whom certificate has been issued keeps or stores explosives in excess of the amount authorized by the certificate. Upon cancellation of his certificate the owner shall immediately remove all explosives from the magazine. The owner or user of a magazine shall promptly notify the commissioner of any change in conditions.

4. Annual license fee. The owner or user of a magazine shall annually pay to the commissioner in advance a license fee graduated according to the quantity of explosives authorized to be stored in the magazine. The fee shall not be less than five dollars nor more than twenty-five dollars and shall be paid into the state treasury by the commissioner.

§ 459. **Transportation.** 1. Every vehicle carrying an explosive shall display upon an erect pole upon its front end at such height as to be visible from all directions a red flag with the word "danger" printed, stamped or sewed in white letters thereon. The flag shall be at least eighteen inches wide by thirty inches long and the letters at least twelve inches high.

2. No person shall approach, ride upon, drive, load or unload a vehicle carrying an explosive carelessly, recklessly, or while smoking or while under the influence of intoxicating liquor.

3. No person shall place or carry, or cause to be placed or carried, in or upon a vehicle containing an explosive any metal tool, piece of metal, fire, or any match, exploder, detonator, blasting cap or other device for producing spark, flame or heat, excepting tools for the operation and repair of such vehicle.

4. No passenger or passengers shall be carried in or upon a vehicle containing an explosive.

§ 460. **Records of sales or gifts.** Every person selling or giving away an explosive in a quantity greater than five pounds at a time shall keep at his principal office or place of business a journal or book of record setting forth in legible writing a complete history of the transaction, including the name and quantity of the explosive, the name, residence and business address of the pur-

chaser and the name and address of the person taking the explosive away. Such journal or book of record shall be open to inspection by the commissioner or by the police authorities.

§ 461. **Testing of firearms.** The methods of testing firearms in manufacturing plants shall be subject to the approval of the commissioner.

§ 462. **Enforcement in cities.** In cities having departments of public safety with bureaus of explosives or combustibles, such departments shall enforce this article.

§ 463. **Non-compliance or violation.** Whoever fails to comply with or violates any provision of this article shall be guilty of a misdemeanor.

§ 2. This act shall take effect immediately.

CHAPTER 422

AN ACT relating to the issue and payment of bonds of the town of Mamaroneck for sewer systems in sewer district number one of said town.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. In directing the issue and sale of bonds for the amount of the cost of constructing sewer systems in sewer district number one of the town of Mamaroneck in the county of Westchester (as such sewer district now is or may hereafter be extended) and in providing for the payment of bonds for such purposes, the town board of said town shall be governed by the provisions of the town law except as herein provided.

Applica-
tion of
town law.

§ 2. Bonds to the extent of one hundred fifty thousand dollars issued at any time hereafter for the cost of the construction of the sewer system in the said sewer district as now established shall mature in equal annual installments of five thousand dollars each, beginning not later than the year nineteen hundred and forty-eight. If less than all of said bonds are issued at one time, the first bonds to be issued shall be those first to mature.

Maturity
of bonds
hereafter
issued.

§ 3. In case the said sewer district number one is extended, bonds to the extent of five hundred thousand dollars, aggregate amount issued at any time or times for the cost of a sewer system in an extension of said sewer district shall mature in not exceeding forty-five substantially equal annual installments beginning not more than five years from their date.

Maturity
if issued
in exten-
sion of
district.

§ 4. Bonds issued before this act becomes law for the cost of construction of the sewer system in said sewer district which mature in the year nineteen hundred and twenty-two may be refunded by the issue and sale of new bonds maturing in substantially equal annual installments not exceeding forty-five, commencing not more than two years from their date.

Refunding
of cer-
tain bonds
heretofore
issued.

Authori-
zation un-
necessary.

§ 5. It shall not be necessary to obtain the authorization of the board of supervisors of said county for the issuance of bonds in pursuance of this act.

Borrowing
money in
anticipa-
tion of
taxes.

§ 6. If bonds or interest thereon, issued before or after this act becomes law, for the construction of a sewer system in said sewer district, or any extension thereof, shall become due and payable and the proceeds of taxes are for any reason not available to pay the same the town board of said town shall from time to time borrow such sums as may be necessary to pay such bonds or interest in anticipation of taxes levied or to be levied. Such loans may be evidenced by negotiable certificates of indebtedness.

Powers
of town
boards.

§ 7. This act shall be construed to extend the powers of the town board of said town and not to limit them.

§ 8. This act shall take effect immediately.

CHAPTER 423

AN ACT to amend the real property law and the executive law, in relation to the recording of written instruments and the taking of acknowledgments or proofs of deeds.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L 1909,
ch. 52,
§ 310, as
amended
by L. 1911,
ch. 198,
amended.

Section 1. Section three hundred and ten of chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," as last amended by chapter one hundred and ninety-six of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

§ 310. **When county clerk's authentication necessary.**¹ A certificate of acknowledgment or proof, made within the state, by a commissioner of deeds, justice of the peace, or, except as otherwise provided by law, by a notary public, does not entitle the conveyance to be read in evidence or recorded, except within the county in which the officer making the same is authorized to act at the time of making such certificate, unless authenticated by a certificate of the clerk of the same county; provided, however, that all certificates of acknowledgments or proof, made by or before a commissioner of deeds of the city of New York residing in any part therein, shall be authenticated by the clerk of any county within said city, in whose office such commissioner of deeds shall have filed a certificate under the hand and seal of the city clerk of said city, showing the appointment and term of office of such commissioner, and no other certificate shall be required, from any other officer to entitle said conveyance to be read in evidence or recorded in any county of the state of New

¹ Section heading new.

York. "In any county in which there is a register's office, such register shall not record or accept for record any deed or other instrument proved or acknowledged in the county for which he is register, before any notary public, unless such notary public shall have filed in such register's office his autograph signature and a certificate from the county clerk of the county in which such notary public was originally appointed or a certificate from the county clerk of such register's county, showing the due qualification of such notary public in such county clerk's office; or unless such acknowledgment or proof shall have been authenticated by the county clerk of the county in which such register holds office. But this section does not apply to a conveyance executed by an agent for the Holland Land Company or of the Pulteney estate, lawfully authorized to convey real property.

§ 2. The concluding paragraph of section one hundred and three of chapter twenty-three of the laws of nineteen hundred and nine, entitled "An act in relation to executive officers, constituting chapter eighteen of the consolidated laws," as such section was last amended by chapter eighteen of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

L. 1909,
ch. 23,
§ 103,
last para-
graph, as
amended
by L. 1915,
ch. 18,
amended.

Provided, however, that in any county where there is a register as well as a county clerk, a notary public may file in the office of said register his autograph signature and a certificate of a county clerk as is provided in section one hundred and two for the filing of such signature and certificate in certain cases with a county clerk.¹ The provisions herein for filing of such signature and certificate in the office of a register shall apply whether the notary public is acting in the county for which he was appointed or in a county in which he has qualified, under the provisions of section one hundred and two. In the latter case, however, a certificate from either the county clerk where he was originally appointed or from the county clerk where he has qualified and is acting shall be sufficient. The register in any county shall be paid a fee of twenty-five cents for the filing of each signature and certificates herein provided, and he shall keep a book for entry of the said signatures.

Filing of
signature
of notary
public and
certificate
of county
clerk with
register.

§ 3. Every acknowledgment or proof heretofore taken by a notary public of any deed or other instrument in a county having a register of deeds which is valid except for the fact that such notary public had not filed in the register's office his autograph signature and the certificate of the proper county clerk, as provided in section one hundred and three of the executive law prior to its enactment by this act and the recording in any such regis-

Acknowl-
edgments
legalized.

¹ Following sentence new.

² Sentence omitted which read: "No notary public shall, within a county in which there is a register's office, take or certify any acknowledgment or proof of any deed or other instrument to be recorded in the register's office in said county, and no register shall record or accept for record any deed or other instrument proved or acknowledged in the county for which he is register by any notary public, unless said notary public shall have filed in such register's office his autograph signature and the certificate of the proper county clerk as above provided for."

ter's office of a deed or other instrument so acknowledged or proved, without the previous filing of such signature or certificate, are hereby legalized, ratified and confirmed. This section shall not affect any action or proceeding now pending in any court.

§ 4. This act shall take effect immediately.

CHAPTER 424

AN ACT to authorize the town boards of the towns of Riverhead, Southampton and Southold, Suffolk county, to audit and pay certain unpaid highway bills incurred by the town superintendents of such towns.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Riverhead, of the town of Southampton, or of the town of Southold, Suffolk county, is hereby authorized to audit unpaid bills for highway purposes for the calendar year nineteen hundred and twenty-one, incurred by the town superintendent in excess of the amount appropriated and available for such purpose, if satisfied that labor and material for which such bills are rendered was actually received by the town, not exceeding in the aggregate the sum of ten hundred and seventy-five dollars in the town of Riverhead, the sum of five thousand dollars in the town of Southampton or three thousand five hundred dollars in the town of Southold; and to direct the supervisor to pay such bills so audited out of any moneys of the town available for such purpose, or if no money be so available, the town board may borrow the needed amount on the credit of the town, and the amount so borrowed shall be a town charge and included in the next annual tax levy.

§ 2. This act shall take effect immediately.

CHAPTER 425

AN ACT to amend the tax law, in relation to the personal income tax.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision seven of section three hundred and fifty of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and twenty-seven of the laws of nineteen hundred and nineteen, and amended by chapter six hundred and ninety-one of

L. 1909,
ch. 62,
§ 350,
subd. 7, as
added by
L. 1919,
ch. 627,
and
amended

the laws of nineteen hundred and twenty, is hereby amended to read as follows:¹

7. The word "resident" applies only to natural persons and includes for the purpose of determining liability to the tax imposed by this article upon or with reference to the income of any taxable year, any person domiciled in the state of New York, and any other person who maintains a permanent place of abode within the state, and spends in the aggregate more than seven months of the taxable year within the state.

by L. 1920,
ch. 691,
amended.
Resident.

§ 2. Said chapter is hereby amended by inserting a new section, to follow section three hundred and sixty-seven, and to be known as section three hundred and sixty-seven-a, to read as follows:

§ 367a
added.

§ 367-a. **Returns in cases of changed residence.** If a taxpayer during the taxable year changes his status from that of resident to that of nonresident, or from that of nonresident to that of resident, he shall file two returns, one as a resident covering the fraction of the year during which he was a resident, and one as a person other than a resident covering the fraction of the year during which he was a nonresident. The exemptions provided in section three hundred and sixty-two of this article shall be divided ratably between the two returns so filed, according to time. If the aggregate of the taxpayer's net income from all sources during the fraction of the year in which he was a resident, and his net income from sources within the state during the fraction of the year in which he was a nonresident, shall be less than one thousand dollars in the case of a taxpayer who is single, or married and not living with husband or wife, or under two thousand dollars in the case of a taxpayer who is married and living with husband or wife, no returns shall be required under this section.

§ 3. This act shall take effect immediately and the provisions shall apply to returns for any taxable year ending on or after December thirty-first, nineteen hundred and twenty-one, and to any requirements in connection with such returns.

In effect
when.

CHAPTER 426

AN ACT to amend the tax law, in relation to the personal income tax.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and sixty-five^{1a} of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the con-

L. 1909,
ch. 62,
§ 365, as
amended
by L. 1920,
ch. 695,
amended.

¹ Subd. 7 materially amended.

^{1a} As added by L. 1919, ch. 627.

solidated laws," as amended by section six hundred and ninety-five of the laws of nineteen hundred and twenty is hereby amended to read as follows:

§ 365. **Estates and trusts.** 1. The tax imposed by this article shall apply to estates and trusts, which tax shall be levied, collected and paid annually upon and with respect to the income of estates or of any kind of property held in trust, including:

a. Income received by estates of deceased persons during the period of administration or settlement of the estate;

b. Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

c. Income held for future distribution under the terms of the will or trust;

d. Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct; and

e. Income of an estate during the period of administration or settlement permitted by subdivision three to be deducted from the net income upon which the tax is to be paid by the fiduciary.

2. The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether such income be taxable to the estate or trust or to the beneficiaries thereof. The net income of an estate or trust shall be computed in the same manner and on the same basis as provided in this article for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which pursuant to the terms of the will or deed creating the trust, is¹ paid to or held² for the United States, and³ state, territory, or any political subdivision thereof, or the District of Columbia, or any corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and in cases under paragraphs d and e of subdivision one of this section, the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.

3. In cases under paragraphs a, b, and c of subdivision one, of this section, the tax shall be imposed upon the estate or trust with respect to the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases, the estate or trust shall be allowed the same exemptions as are allowed to single persons under section three hundred and sixty-two, and in such cases an

¹ So in original. [Evidently should be "any."]

² Words "during the taxable year" omitted.

³ Word "held" substituted for words "permanently set aside."

estate or trust created by a person not a resident and an estate of a person not a resident shall be subject to tax only to the extent to which individuals other than residents are liable under section three hundred and fifty-nine, subdivision three.

4. 'In cases under paragraphs d and e of subdivision one of this section, if the distribution of income is in the direction * of the fiduciary, either as to the beneficiaries to whom payable or as to the amounts to which any beneficiary is entitled, the tax shall be imposed upon the estate or trust in the manner provided in subdivision three of this section, but without the deduction of any amounts of income paid or credited to any such beneficiary. In all other ⁵ cases under paragraphs d and e of subdivision one of this section, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year upon the basis of which such beneficiary's net income is computed. In such cases the income of a beneficiary not a resident, derived through such estate or trust, shall be taxable only to the extent provided in section three hundred and fifty-nine, subdivision three, for individuals other than residents.

5.⁶ A trust created by an employer as a part of a stock bonus or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but any amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him.

§ 2. Subdivision two of section three hundred and sixty-nine ⁷ of said chapter, as last amended by chapter four hundred and seventy-seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

2. If he acts (a) for an estate of a deceased person during the period of administration or settlement, whether or not the income of such estate during such period of administration or settlement is properly paid or credited to any legatee, heir or other beneficiary; (b) for an estate or trust the income of which is accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests; or (c) for an estate

§ 369, subd. 2, as amended by L. 1921, ch. 477, amended. Fiduciary returns.

* So in original. [Evidently should be "discretion".]

⁴ Following sentence new.

⁵ Words "all other" new.

⁶ Subd. 5 new.

⁷ As added by L. 1919, ch. 627, and amended by L. 1920, ch. 695.

or trust the income of which is held for future distribution or is distributable in the discretion of the fiduciary³ under the terms of the will or trust; and the net income of such estate or trust is one thousand dollars or over.

In effect
when.

§ 3. This act shall take effect immediately and its provisions shall apply to returns for any taxable year ending on or after December thirty-first, nineteen hundred and twenty-one, and to any requirements in connection with such returns.

CHAPTER 427

AN ACT to amend the tax law, in relation to personal income tax.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 62,
§ 356, as
added by
L. 1919,
ch. 627,
and
amended
by L. 1921,
ch. 477,
amended.

Section 1. Section three hundred and fifty-six of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and twenty-seven of the laws of nineteen hundred and nineteen, and amended by chapter four hundred and seventy-seven of the laws of nineteen hundred and twenty-one, is amended to read as follows:

§ 356. **Inventory.** Whenever in the opinion of the tax commission the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the tax commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income.¹

§ 371, as
amended by
L. 1921,
ch. 477,
amended.

§ 2. Section three hundred and seventy-one² of said chapter, as last amended by chapter four hundred and seventy-seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 371. **Time and place of filing returns.** Returns shall be made to the tax commission on or before the fifteenth day of the fourth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of April in each year. The tax commission may grant a reasonable extension of time for filing returns whenever in its judgment good cause exists and shall keep a record of every such extension and the reason therefor. Except in the case of taxpayers who are abroad, no

³ Words "or is distributable in the discretion of the fiduciary," new.

¹ Words "and conforming so far as may be to the forms and methods prescribed by the United States commissioner of internal revenue under the act of congress known as the revenue act of nineteen hundred and eighteen," omitted.

² As added by L. 1919, ch. 627, and amended by L. 1920, ch. 691.

such extension shall be granted for more than six months. Such returns shall³ set forth⁴ such⁵ facts as the tax commission may deem necessary for the proper enforcement of this article. There shall be annexed to such return the affidavit or affirmation of the person making the return, to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the tax commission upon application, but failure to secure the form shall not relieve any taxpayer from the obligation of making any return herein required.

§ 3. This act shall take effect immediately and its provisions shall apply to returns for any taxable year ending on or after December thirty-first, nineteen hundred and twenty-one, and to any requirements in connection with such returns. in effect
when.

CHAPTER 428

AN ACT to amend section ninety-one of the tax law, relating to the payment of state taxes.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1, Section ninety-one¹ of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as amended, is hereby amended to read as follows:² L. 1909,
ch. 62,
§ 91,
as amended.

§ 91. **Payment of state tax.** The comptroller shall charge each county treasurer with the amount of the state tax levied on his county, crediting him with his fees, if any, but no fees shall be allowed by the comptroller for such portion of the state tax as is credited by him for unpaid nonresident taxes. The county treasurer of each county shall, after retaining his fees thereon, at the rate of one per centum thereof, which shall not, however, in any case exceed fifteen hundred dollars, for all taxes for state purposes, pay the state tax to the treasurer of the state, as follows: One-third of the state tax on or before the fifteenth day of February, one-third thereof on or before the fifteenth day of April, the balance thereof on or before the fifteenth day of May, in each year, and notify the comptroller of such payment. If there are not sufficient funds in the county treasury standing to the credit of any tax district to pay the state tax chargeable thereto, the treasurer shall borrow sufficient money upon the

¹ Words "so far as may be" omitted.

² Words "the same or similar items called for in the blank forms of return prescribed by the United States commissioner of internal revenue for the enforcement of the act of congress known as the revenue act of nineteen hundred and eighteen, together with," omitted.

³ Word "other" omitted.

⁴ As amended by L. 1919, chs. 55, 249.

⁵ Section materially amended.

credit of the county and charge the same against such tax district, with interest thereon until the same is paid. If any county treasurer shall not pay over the state tax as herein directed, the comptroller shall charge on all sums withheld such rate of interest as shall be sufficient to repay all expenditures incurred by the state in borrowing money equivalent to the amount so withheld, and such additional rate as he shall deem proper, not exceeding ten per centum, from the dates hereinbefore provided for such payments in each year, which shall be regarded as funds in the hands of the county treasurer belonging to the state and for which his sureties and county shall be liable.

This section, as amended, shall be deemed to supersede any other provision of this chapter or of any other general or special law inconsistent therewith.

§ 2. This act shall take effect immediately.

CHAPTER 429

AN ACT to amend the tax law, in relation to the personal income tax.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 62,
§§ 354, 355,
as added
by L. 1919,
ch. 627,
repealed.

Section 1. Sections three hundred and fifty-four and three hundred and fifty-five of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and twenty-seven of the laws of nineteen hundred and nineteen, are hereby repealed.

§§ 354, 355
added.

§ 2. Chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and twenty-seven of the laws of nineteen hundred and nineteen, is hereby amended by the insertion therein of two new sections, to be sections three hundred and fifty-four and three hundred and fifty-five, to read as follows:

§ 354. **Exchange of property.** When property is exchanged for other property having a readily ascertainable market value, the property received in exchange shall, for the purpose of determining gain or loss, be treated as the equivalent of cash to the amount of its fair market value, if any, but even if property received in exchange has a readily ascertainable market value, no gain or loss shall be recognized (1) when in the reorganization, consolidation or merger of one or more corporations a person receives in place of any stock or securities owned by him, stock or securities in a corporation a party to or resulting from such reorganization, consolidation or merger, or (2) when a person or persons transfer any property, real, personal or mixed, to a corporation, and immediately after the transfer is or are in con-

trol of such corporation by stock ownership acquired by the transfer of such property for stock of the corporation.

§ 355. **Exchange of property when no gain or loss is realized.** When property is exchanged for other property and no gain or loss is realized under the provisions of section three hundred and fifty-four, the property received shall be treated as taking the place of the property exchanged therefor.

§ 3. This act shall take effect immediately and its provisions shall apply to returns for any taxable year ending on or after December thirty-first, nineteen hundred and twenty-one, and to any requirements in connection with such returns. In effect when.

CHAPTER 430

AN ACT to amend the tax law, in relation to taxable transfers.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and twenty of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter six hundred and twenty-six of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:² L. 1909, ch. 62, § 220, as amended by L. 1919, ch. 626, amended.

§ 220. **Taxable transfers.** A tax shall be and is hereby imposed upon the transfer of any property real or personal, or of any interest therein or income therefrom in trust or otherwise, to persons or corporations in the following cases, subject to the exemptions and limitations hereinafter prescribed:

1. When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed thereof while a resident of the state.

2. In the case of a nonresident decedent when the transfer is by will or intestate law of any of the following items:

(a) Real property within this state, or goods, wares and merchandise within this state.

(b) Shares of stock or certificates of interest of corporations organized under the laws of this state, or of national banking associations located in this state, or of joint stock companies or associations organized under the laws of this state and including all dividends and rights to subscribe to the stock of such corporations, joint stock companies or associations or banks.

(c) Property evidenced by or consisting of shares of stock of a foreign corporation, joint stock company or association, or bonds, notes, mortgages or other evidences of interest in any corpora-

¹ Previously amended by L. 1910, ch. 706; L. 1911, ch. 732; L. 1915, ch. 664; L. 1916, ch. 323.

² Section materially amended.

tion, joint stock company or association wherever incorporated or organized where the property represented by such shares of stock, bonds, notes, mortgages or other evidences of interest, consists of real property which is located wholly, or partly, within this state to the extent to which the value of the said items respectively is enhanced, or is represented, or is secured, by real estate in the state of New York owned by such corporation, joint stock company or association. There shall be excepted from the classification of this subdivision all of such items where such corporation, joint stock company or association is or is in the nature of a moneyed corporation, a railroad or transportation corporation, a public service or manufacturing corporation as defined or classified by the laws of this state.

(d) The interest of such decedent in any partnership business conducted, wholly or partly, within the state of New York to the extent of the interest of the decedent in the partnership property within this state and the good will of such business within this state.

(e) Capital invested in business within this state.

Nothing in this section shall be taken to include deposits in banks or trust companies or with persons or corporations acting as bankers, or to permit of a transfer tax by reason of keeping securities, other than those taxable under this article, within this state.

3. All property taxable under this section not specifically bequeathed or devised, including transfers under a residuary clause in a will, shall be deemed to be transferred proportionately among all the general legatees and devisees in accordance with their several interests in the estate, and in case of intestacy according to the proportions stated by the statute of distributions applicable thereto.

4. When the transfer is of property made by a resident, or is of property of a nonresident included within any of the classes named in subdivision two; and is made by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor, or donor or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor or donor by reason of any power reserved to or conferred upon the grantor, vendor or donor, either solely or in conjunction with any person or persons to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of the death of the grantor, vendor or donor, thus subject to alteration, amendment or revocation. If any one of the foregoing transfers is made for a valuable consideration, the portion of the transfer for which the grantor or vendor receives equivalent monetary value is not taxable, but the remaining portion thereof is taxable.

5. When any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the in-

come thereof by any such transfer whether made before or after the passage of this chapter.

6. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this chapter, such appointment when made shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, and if the donee of the power is a nonresident all of the property and the proceeds of the property which was subject to taxation under this section at the time of the death of the donor shall be deemed to be included in the transfer.

7. Whenever property is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased tenant by the entirety, joint tenant or joint depositor and had been bequeathed to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant or joint depositor by will.

8. The tax imposed hereby shall be upon the clear market value of such property at the rates hereinafter prescribed.

§ 2. This act shall take effect immediately.

CHAPTER 431

AN ACT to amend the tax law, in relation to the exemption of certain corporations from the franchise tax on capital stock.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-three of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended to read as follows:¹

§ 183. **Certain corporations exempt from tax on capital stock.** Banks, savings banks, institutions for savings, title guaranty, insurance or surety corporations, every trust company incorporated, organized or formed, under, by or pursuant to a law of this state, and any company authorized to do a trust company business,

L. 1909,
ch. 62,
§ 183
amended.

¹ Section materially amended.

solely or in connection with any other business, under a special law of this state, agricultural or horticultural societies or associations, and corporations, joint-stock companies or associations owning or operating elevated railroads or surface railroads not operated by steam, or formed for supplying water or gas for electric or steam heating, lighting or power purposes, and liable to a tax under sections one hundred and eighty-five and one hundred and eighty-six of this chapter, and corporations taxable under the provisions of article nine-a of this chapter, shall be exempt from the payment of the taxes prescribed by section one hundred and eighty-two of this chapter.

§ 2. This act shall take effect immediately.

CHAPTER 432

AN ACT to amend the tax law, in relation to the tax upon transfers from nonresident decedents.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended by adding a new section, to be section two hundred and twenty-one-c, to follow section two hundred and twenty-one-a and to read as follows:

§ 221-c. **Rule for fixing the tax upon transfers from non-resident decedents.** To fix the tax in the case of a transfer from a nonresident decedent, determine

First: The aggregate transfer; that is, the fair market value of the property, real or personal, whether within or without the state, passing to the transferee from the estate of the decedent after making the deductions computed as if the decedent were a resident of this state and all his property were located within this state.

Second: The New York transfer; that is, the fair market value of that part of the property, included in said aggregate transfer, passing to the transferee from property of which the transfer is taxable under this chapter, after computing the deductions as aforesaid.

Third: The tax which would be imposed upon such aggregate transfer if the whole thereof were taxed under this chapter.

The amount of the tax upon the transfer taxable hereunder shall be such a part of what the tax would be upon said aggregate transfer, as the said New York transfer bears to the said aggregate transfer, but without increasing the graded rate by the inclusion of property without the state and without taxing transfers of which the amount is not over five hundred dollars.

§ 2. This act shall take effect immediately.

§ 221c
added, to
L. 1909,
ch. 62.

CHAPTER 433

AN ACT to amend the tax law, in relation to the commutation of the transfer tax upon the estates of nonresident decedents.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended by adding a new section, to be section two hundred and twenty-one-d, to follow section two hundred and twenty-one-c and to read as follows:

§ 221-d. **Optional commutation of the tax in nonresident estates.** Provided that it is proved to the satisfaction of the surrogate that the amount of the tax will not be decreased by the following method, the transfer tax in the estate of a nonresident decedent may be commuted and finally settled as between the state and all parties in interest by the payment to the state tax commission of a sum to be determined by the commission which sum shall be not less than two per centum upon the clear market value of all the property within the state taxable under this article and without deduction or exemption of any kind.

§ 2. This act shall take effect immediately.

CHAPTER 434

AN ACT to amend the tax law, in relation to the organization tax on corporations.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended¹ by chapter seven hundred and five of the laws of nineteen hundred and twenty-two,* is hereby amended to read as follows:

§ 180. **Organization tax.** Every stock corporation incorporated under any law of this state shall pay to the state treasurer a tax of one-twentieth of one per centum upon the amount of the par

* So in original. [Should be 1921.]

¹ Previously amended by L. 1910, ch. 472; L. 1911, ch. 91; L. 1915, ch. 317; L. 1917, ch. 493.

value of all the shares with a par value which it is authorized to issue and a tax of five cents on each share without a par value which it² is authorized to issue, and a like tax upon any subsequent increase thereof. Provided, that in no case shall such tax be less than ten dollars. Such tax shall be due and payable upon the incorporation of such corporation or upon the increase of its capital stock. Except in the case of a railroad corporation neither the secretary of state nor county clerk shall file any certificate of incorporation or article of association, or give any certificate to any such corporation or association until he is furnished a receipt for such tax from the state treasurer, and no stock corporation shall have or exercise any corporate franchise or powers, or carry on business in this state until such tax shall have been paid. And in case of a decrease of capital stock, upon which the tax required by law has been paid, and a subsequent increase thereof, a tax shall be paid only upon so much of such increase as exceeds the amount of capital stock upon which a tax has been before paid. In case of the consolidation of existing corporations into a corporation, such new corporation shall be required to pay the tax hereinbefore provided for only upon the amount of its capital stock in excess of the aggregate amount of capital stock of said corporations. This section shall not apply to state and national banks or to building, mutual loan, accumulating fund and co-operative associations. A railroad corporation need not pay such tax at the time of filing its certificate of incorporation, but shall pay the same before the public service commission shall grant a certificate, as required by the railroad law, authorizing the construction of the road as proposed in its articles of association, and such certificate shall not be granted by the public service commission until it is furnished with a receipt for such tax from the state treasurer. If the board of railroad commissioners or public service commission shall have heretofore granted, or the public service commission shall hereafter grant, such certificate and upon an appeal from the determination of such board of railroad commissioners or public service commission, such certificate has been or may hereafter be denied the state treasurer shall refund the amount of tax so paid to the railroad corporation or corporations by which such tax was paid, upon proof of payment being presented and appropriation being made therefor.

§ 2. This act shall take effect immediately.

² Words "the par value of all the shares with a par value which it is authorized to issue and a tax of five cents on each share without a par value which it," substituted for words "capital stock which the corporation is authorized to have, and a like tax upon any subsequent increase. Any corporation issuing shares without designated monetary value shall pay to the state treasurer a tax of five cents on each share which the corporation."

CHAPTER 435

AN ACT in relation to the educational district of the town of Seneca Falls, established by chapter three hundred and eighty-nine of the laws of eighteen hundred and sixty-seven, entitled "An act relating to schools in the town of Seneca Falls," and repealing chapter three hundred and eighty-nine of the laws of eighteen hundred and sixty-seven and acts amendatory thereof.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The educational district of the town of Seneca Falls as organized by chapter three hundred and eighty-nine of the laws of eighteen hundred and sixty-seven, is hereby continued and re-established as a union free school district to be known as the Seneca Falls union free school district, under and subject to the provisions of the education law, and also subject to all other general laws which apply to union free schools organized under the education law. The commissioners of education of such district now in office shall continue to serve and shall constitute the board of education of such district until the first Tuesday in August, nineteen hundred and twenty-two, at which time the terms of office of such commissioner of education shall expire. At the annual meeting of such district to be held on the first Tuesday in May, nineteen hundred and twenty-two, there shall be elected not less than three nor more than nine trustees who shall constitute the board of education of such district, and who shall by the order of such meeting, be divided into three classes, the first to hold until one, the second until two, and the third until three years from the first Tuesday in August next following; thereafter there shall be elected in such district at the annual meeting, successors to such trustees as their terms of office expire. The present clerk, collector and treasurer shall serve until their successors are appointed.

§ 2. At the annual meeting of such district held on the first Tuesday in May, nineteen hundred and twenty-two, the meeting may vote such school tax for the year nineteen hundred and twenty-two as it may determine within the limits prescribed by the education law, and such district shall not be bound by the action of a former school meeting, if any, providing a different amount of school tax for such year.

§ 3. The property and estate of the education district of Seneca Falls, as established by chapter three hundred and eighty-nine of the laws of eighteen hundred and sixty-seven, shall vest in the board of education of such district as hereby constituted and the property of such district hereafter acquired shall vest in such board and its successors and all outstanding indebtedness of such district, whether bonded or otherwise, shall become obligations of and be paid by the Seneca Falls free school district as hereby continued and re-established.

L. 1867,
ch. 389
repealed.

§ 4. Chapter three hundred and eighty-nine of the laws of eighteen hundred and sixty-seven, as amended by chapter one hundred and seventy-four of the laws of eighteen hundred and seventy-one, chapter four hundred and forty-seven of the laws of eighteen hundred and ninety-six and chapter five hundred and twenty-two of the laws of nineteen hundred and nineteen, are hereby repealed.

§ 5. This act shall take effect immediately.

CHAPTER 436

AN ACT to amend chapter seven hundred and thirty-five of the laws of nineteen hundred and seventeen, entitled "An act providing for the construction of a bridge across the Mohawk river and the barge canal to take the place of the existing Schenectady-Scotia toll bridge, and for constructing approaches thereto between State street at Washington avenue, in the city of Schenectady, and Mohawk avenue, in the village of Scotia; apportioning the expense thereof to the state of New York, the city of Schenectady, the county of Schenectady and the village of Scotia; providing for the payment of such expense, and for the purchase of said existing toll bridge and the disposition of the proceeds thereof," as amended by chapter six hundred and thirty-four of the laws of nineteen hundred and nineteen, generally, and making an appropriation toward the state's share of the expense of such improvement.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1917,
ch. 735,
§§ 1, 2,
8, 13
amended.

Section 1. Sections one, two, eight and thirteen of chapter seven hundred and thirty-five of the laws of nineteen hundred and seventeen, entitled "An act providing for the construction of a bridge across the Mohawk river and the barge canal to take the place of the existing Schenectady-Scotia toll bridge, and for constructing approaches thereto between State street at Washington avenue in the city of Schenectady and Mohawk avenue in the village of Scotia; apportioning the expense thereof to the state of New York, the city of Schenectady, the county of Schenectady and the village of Scotia; providing for the payment of such expense, and for the purchase of said existing toll bridge and the disposition of the proceeds thereof," as amended by chapter six hundred and thirty-four of the laws of nineteen hundred and nineteen¹ are hereby amended to read, respectively, as follows:

Superin-
tendent of
public
works to
contract
for con-
struction.

§ 1. The superintendent of public works, is hereby authorized and directed to enter into the necessary contract or contracts for the construction of a bridge and approaches to extend from the junction of State street and Washington avenue in the city of Schenectady to a point on Mohawk avenue about three hundred feet westerly of the junction of Schonowee avenue and Mohawk

¹ Sections 1, 8 were amended, and § 13 was added by L. 1919, ch. 634.

avenue in the village of Scotia in the county of Schenectady.² The description of the improvement is as follows: The new construction is to begin at the point where State street intersects Washington avenue in the city of Schenectady, is to extend substantially as a direct continuation of State street westerly to a point at or westerly of the westerly bank of the barge canal terminal waterway distant approximately eight hundred feet from the point of beginning, where a suitable curve is to be constructed, and is to continue beyond said curve in a straight line to a point on Mohawk avenue about three hundred feet westerly of the junction of Schonowee avenue and Mohawk avenue in the village of Scotia.

Description of improvement.

§ 2. The improvement between the intersection of the center lines of Washington avenue and State street in Schenectady and the terminal point in Scotia, a distance of about four thousand feet, shall, except as provided in section three, have a driveway forty feet in width with suitable wearing surface; also two overhanging concrete sidewalks each not less than six feet in width. The bridge shall be designed to carry two electric railway tracks and be of sufficient strength for the use of modern suburban electric cars. The structure shall be of the deck type and built of concrete properly reinforced, ³except that the arch ribs of the barge canal channel span may be constructed of structural steel. The bridge shall cross the channel of the barge canal in one span of approximately two hundred feet in the clear; all other spans, including the spans of the viaduct across the islands shall be about seventy feet in the clear. The top of each pier coping shall be at an elevation approximately the same as and not lower than that determined as the barge canal clearance at the highest ordinary navigable stage of the canal at the point of crossing. The dimensions above specified may be increased provided the limit of cost specified by this act shall not be thereby exceeded. Such bridge shall be built to take the place of the existing toll bridge connecting the city of Schenectady and the village of Scotia.

Description of improvement continued.

§ 8.⁴ The superintendent of public works is hereby authorized and directed to execute all necessary contracts in behalf of the people of the state of New York for the construction of the work herein authorized in accordance with the plans, designs and specifications hereinbefore provided for; but all such contracts shall be approved by the canal board. The sum of moneys required to be paid into the bank under sections four, five and thirteen by the city of Schenectady, the county of Schenectady and the village of Scotia, shall, as they become payable for the improvement, be applied by the superintendent of public works thereon upon vouchers approved by him. Of the aggregate cost of the construction of the improvement described in this act, exclusive

Contracts.

Application of moneys paid by city and county of Schenectady and Scotia; apportionment of other cost.

² Words "for an amount not to exceed in the aggregate one million seven hundred and thirty-four thousand dollars," omitted.

³ Remainder of sentence new.

⁴ Section 8 materially amended.

of the amounts paid by the city of Schenectady and the village of Scotia, and the one hundred thousand dollars paid by the county of Schenectady, and the amount of moneys appropriated from the general fund and provided from the canal fund before this section as hereby amended takes effect, the state shall bear ninety per centum and the county of Schenectady ten per centum, but moneys appropriated at any time for payment of the state's share of such cost shall all be available for the cost of construction of the superstructure of such bridge and for payments under any contract made by the superintendent of public works therefor, even though the county of Schenectady shall not then have provided the moneys required to be paid by it under this act; and upon completion of such improvement the state shall be relieved of any liability whatsoever to construct a bridge in substitution for the existing toll bridge between the city of Schenectady and the village of Scotia.

Payment
by county.

§ 13. Upon the execution of the necessary contracts for the work herein provided for, the county of Schenectady shall, in addition to the other requirements of said chapter seven hundred and thirty-five of the laws of nineteen hundred and seventeen, as amended,⁵ provide for the payment of the cost of such bridge to the extent of one hundred thousand dollars ⁶plus the ten per centum specified in section eight. Said county shall deposit in a bank satisfactory to the state superintendent of public works and payable to the order of the state superintendent of public works the said sum of one hundred thousand dollars plus said ten per centum ⁷at such time or times and in such instalment or instalments as the state superintendent of public works shall require.

Deposit of
amount
by county.

Bond
issue by
county.

The county of Schenectady is hereby authorized and directed to issue bonds in the manner provided by law for the said one hundred thousand dollars plus said ten per centum ⁷and may borrow any portion thereof on notes until the whole thereof is required, when bonds shall be issued as above provided, from the proceeds of the sale of which said notes and interest shall be paid.

Appropriation.

§ 2. The sum of four hundred and eighty thousand dollars (\$480,000) is hereby appropriated from any moneys in the treasury, not otherwise appropriated, for the payment of the state's share in the construction of the bridge provided to be constructed pursuant to chapter seven hundred and thirty-five of the laws of nineteen hundred and seventeen and chapter six hundred and thirty-four of the laws of nineteen hundred and nineteen, as amended by this act.

§ 3. This act shall take effect immediately.

⁵ Word "hereby" omitted.

⁶ Remainder of sentence new.

⁷ Words "plus said ten percentum" new.

CHAPTER 437

AN ACT to amend chapter five hundred and seventy of the laws of nineteen hundred and nine, entitled "An act to establish the city court of Buffalo, defining its powers and jurisdiction and providing for its officers," in relation to fees of the court stenographers.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten of chapter five hundred and seventy of the laws of nineteen hundred and nine, entitled "An act to establish the city court of Buffalo, defining its powers and jurisdiction and providing for its officers," as last amended by chapter four hundred and ninety-two of the laws of nineteen hundred and eighteen¹ is hereby amended to read as follows:

§ 10. Court stenographers, clerks, interpreters and other employees; appointment and removal. The chief judge shall appoint a chief clerk and deputy chief clerk and not more than eight assistant clerks. The chief judge and each associate judge of said court may appoint, and at pleasure remove an official court stenographer. It shall be the duty of each court stenographer to act as secretary to the judge appointing him, perform such other duties of a confidential nature as he may be directed to perform by said judge and also to take stenographic minutes of the testimony and other proceedings in all cases heard or tried before the court or any judge thereof, except the judge sitting at the trial or hearing shall dispense with such services. Each such court stenographer shall preserve the original minutes taken by him in every case, and upon the order of the court file the same with the clerk of the court. In an examination held in any criminal proceeding or trial the testimony of each witness may, in the discretion of the judge, be taken as a deposition by the stenographer of the court. Such minutes of the testimony when so taken and when certified by the stenographer and judge, shall, both with reference to such examination, and in all procedure in connection with such examination provided for by any section of the code of criminal procedure not inconsistent herewith, be regarded as actually taken down in writing by such judge and subscribed by the witness or witnesses at such examination. Each such court stenographer shall deliver to his successor in office all the minutes taken by him which shall not have been filed with the clerk and he shall act in all matters connected with his office in accordance with the directions of the judge appointing him. Each such court stenographer may furnish to any one applying therefor a transcript of said minutes and may charge and re-

¹ Previously amended by L. 1913, ch. 585; L. 1917, ch. 477.

ceive therefor the sum of ten cents¹ for each folio of one hundred words contained in said transcript. Judges of said court shall also appoint an interpreter or interpreters of the Italian and Polish languages. Whenever the judges or a majority of them shall certify in writing to the council of the city of Buffalo that an additional interpreter or interpreters are necessary, said council may, by ordinance, authorize the appointment as in this section provided, of such additional interpreter or interpreters. The judges may appoint an attendant for each part of said court. Such attendants shall perform the usual duties of court attendants and any other duties prescribed by the chief judge or the judge presiding at the part to which the attendant is assigned. The chief judge shall appoint such additional clerks and the judges shall appoint such other or additional employees as may be authorized by ordinance of the council of the city of Buffalo. The salaries of all clerks, interpreters, attendants and other employees shall be fixed by the council of the city of Buffalo. Any clerk, interpreter, attendant or other officer or employee, except court stenographers, may be removed by the chief judge or by a majority of the judges. The appointment and removal of clerks, interpreters, attendants, officers and other employees shall be evidenced by filing in the office of the clerk of the city court a certificate signed by the chief judge, the majority of the judges or the judge, as the case may be, making such appointment or removal.

§ 49, as
amended
by L. 1917,
ch. 477,
amended.

§ 2. Section forty-nine of such chapter, as amended by chapter four hundred and seventy-seven of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 49. **Fees.** In all actions and proceedings brought in said court, there shall be paid to the clerk thereof the following fees: For the issuing of a summons in an action, for fifty dollars or under, twenty-five cents. In an action for fifty dollars and more, one dollar. For issuing a precept in a proceeding for the removal of a tenant, a writ of replevin, writ of attachment or an order of arrest, fifty cents. For issuing a commission, twenty-five cents. Upon demand of a trial by jury, five dollars, except as otherwise provided in this act. For the trial of an issue of fact or law, fifty cents. For making a return upon appeal, the sum of two dollars. Where it shall be necessary upon appeal to make return of the evidence taken upon the trial, the sum of ten cents² for each folio of one hundred words, to be paid in advance to the stenographer reporting and transcribing same.

§ 3. This act shall take effect immediately.

¹ Formerly "six cents."

CHAPTER 438

AN ACT to amend chapter one hundred and fifty-five of the laws of eighteen hundred and forty, entitled "An act to cede the title and jurisdiction over certain lands to the United States," in relation to the use of the ceded land for the erection and maintenance of a hospital.

Became a law April 3, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter one hundred and fifty-five of the laws of eighteen hundred and forty,¹ entitled "An act to cede the title and jurisdiction over certain lands to the United States,"² is hereby amended to read as follows:

§ 1. The commissioners of the land-office are hereby authorized to cede and convey to the United States of America the title of this state to the lands belonging to this state situate in the south village of Black-Rock, between Lake-street or Broadway and the easterly line of the Buffalo and Black-Rock railroad, in said south village of Black-Rock, or so much thereof as may be required by the United States of America, and necessary for the purpose of erecting and establishing a hospital,³ fort, battery, barracks, parade ground or military post; and also to the lands covered by fort Niagara, and such others adjacent thereto as shall be necessary for the accommodation of that post.

§ 2. This act shall take effect immediately.

CHAPTER 439

AN ACT to amend the conservation law, in relation to grouse or partridge.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section two hundred and fourteen of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws,"¹ such section having been added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and last amended by chapter four hundred and sixty-two of the laws of nineteen hundred and twenty^{1a} is hereby amended to read as follows:

¹ L. 1840, ch. 155 was repealed by L. 1892, ch. 678, § 45 and L. 1909, ch. 59, § 170. Its provisions were incorporated in the state law, L. 1892, ch. 678, § 29, subd. 16, and L. 1909, ch. 59, § 29, subd. 16.

² Word "hospital" new.

^{1a} Previously amended by L. 1913, ch. 509; L. 1916, ch. 521.

2. Grouse or partridge. October first² to November fifteenth, both inclusive. A person may take not to exceed three³ grouse or partridge in one day and fifteen⁴ in the open season.

§ 2. This act shall take effect immediately.

CHAPTER 440

AN ACT to amend the civil service law, in relation to the term of office of municipal civil service commissioners.

Became a law April 1, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 15,
§ 11, as
amended
by L. 1921,
ch. 655,
amended.

Section 1. Section eleven of chapter fifteen of the laws of nineteen hundred and nine, as amended by chapter three hundred and fifty-seven, laws of nineteen hundred and sixteen, and as further amended by chapter six hundred and fifty-three of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows:

§ 11. **The classified city service.** The mayor of each city in this state shall appoint and employ suitable persons to prescribe, amend and enforce rules for the classification of the offices, places and employments in the classified service of said city, and for appointments and promotions therein and examinations therefor; and for the registration and selection of laborers for employment therein, not inconsistent with the constitution and the provisions of this chapter, and shall amend the same from time to time. Such persons shall be municipal civil service commissioners and shall constitute the municipal civil service commission of such city. All appointments or designations of municipal civil service commissioners shall be made in such manner that not more than two-thirds of such commissioners in any city shall at any time be adherents of the same political party. ^{2a} On or before the first day of June, nineteen hundred and twenty-two, the mayor shall designate one member of the present municipal civil service commission to serve as a member of the commission until the first day of June, nineteen hundred and twenty-four; one until the first day of June, nineteen hundred and twenty-six, and one until the first day of June, nineteen hundred and twenty-seven. ^{2a} Upon the expiration of each of said terms, the term of office of each commissioner hereafter appointed shall be five years from the first day of June of the year in which he shall be appointed. Such rules herein prescribed and established, and all regulations now existing for appointment and promotion in the civil service of

² Formerly "October fifteenth."

³ Formerly "two."

⁴ Formerly "ten."

¹ Previously amended by L. 1916, ch. 357.

^{2a} Following sentence new.

said city, and any subsequent modification thereof, whether prescribed under the authority of a general law or of any special or local law, shall be valid and take or continue in effect only upon the approval of the mayor of the city and of the state civil service commission. The authority by this section conferred shall not be so exercised as to take from any policeman or fireman any right or benefit conferred by law, or existing under any lawful regulation of the department in which he serves. All examinations herein authorized shall be public, and all rules shall be published, and, with all the proceedings and papers connected with said examinations, shall be at all times subject to the inspection of said state commission and its agents; and said commission shall set forth in its report the character and practical effects of such examinations, together with its views as to the improvement and extension of the same. Subject to the provisions of this chapter and of said rules, the municipal commission of any city shall make regulations for and have control of examinations and registrations for the service of such city, and shall supervise and preserve the records of the same. In case for any reason, the mayor of any city within sixty days after he has the power to appoint, fails to appoint such municipal commissioners, the state commission shall appoint them to hold office until the expiration of the term of the mayor then in office and until their successors are appointed and qualify. It shall be the duty of such persons to prepare and to procure the approval of the rules herein provided for, and, if they fail to do so within sixty days after their appointment, the state commission shall forthwith make said rules. It shall be the duty of such persons to make reports from time to time to the state commission, whenever said commission may request, of the manner in which this law, and the rules and regulations thereunder, have been and are administered, and the results of their administration in such city, and of such other matters as said commission may require, and annually on or before the fifteenth day of January, to make such report to said commission; and it shall be the duty of said state commission in its annual report to set out either these reports, or a sufficient abstract or summary thereof, to give full and clear information as to their contents. A copy of the roster of the classified civil service of such city shall be transmitted to the state commission with the annual report aforesaid, and shall be filed in the office of said commission as a public record. The municipal commission of each city, for the purpose of investigating the enforcement and effect of the civil service law and the rules and regulations prescribed thereunder in the service of such city, shall have the same powers that are granted to the state commission by the third and fourth subdivisions of section six of this act. The mayor may at any time remove any municipal civil service commissioner appointed by him. Said state commission may also, by unanimous vote of the three commissioners, with the written approval of the governor, remove any municipal civil service commissioner appointed or employed under the authority of this section, for in-

competency, inefficiency, neglect of duty or violation of the provisions of this chapter, or of the rules and regulations in force thereunder, or of any of them, specifying in writing the particulars of the incompetency, inefficiency, neglect of duty or violation charged, and filing the same as a public document in the office of the city clerk, or if there be no city clerk, in the office of the clerk of the board of aldermen, and a certified transcript thereof in the office of the state civil service commission, first giving such commissioner an opportunity to make a personal explanation in self-defense. Whenever a municipal civil service commissioner has been removed by the unanimous vote of the three state commissioners, with the written approval of the governor, or whenever any municipal commissioner shall resign or be removed by the mayor pending an investigation by the state commission of the administration of the civil service of the city in which such person is a municipal commissioner, or whenever any municipal commissioner shall resign or be removed by the mayor pending a hearing by the state commission of charges preferred against such municipal commissioner, the state commission and not the mayor of such city shall have power to appoint persons to fill such vacancies, and such persons so appointed by the state commission shall hold office as municipal civil service commissioners of such city until the expiration of the term of the mayor then in office and until their successors are appointed and qualify. Said state commission may at any time, by unanimous vote of the three commissioners, amend or rescind any rule, regulation or classification prescribed under the provisions of this section, provided that said state commission shall state the reasons for such action in writing and file the same and a certified transcript thereof as a public document as hereinbefore provided, and give an opportunity to the municipal civil service commissioners concerned to make a personal explanation and to file papers in opposition to such action. The said state commission, however, shall not take such action upon any ground other than that the provisions or purposes of this chapter are not properly or sufficiently carried out by such rule, regulation or classification, nor without specifying in writing and detail in what particular such provisions or purposes are not carried out, nor shall said state commission exempt from competitive examination any position or place or employment in any city without the consent of the municipal commission of such city.

§ 2. This act shall take effect immediately.

CHAPTER 441

AN ACT to amend chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to incorporate the city of Geneva," generally.¹

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The second paragraph of section forty-four of chapter three hundred and sixty of the laws of eighteen hundred and ninety-seven, entitled "An act to incorporate the city Geneva," relating to fire limits, as last amended by chapter four hundred and sixty-one of the laws of nineteen hundred and five,² is hereby made section forty-four-a and amended to read as follows:

§ 44-a. **Fire limits and prevention of fires.** The common council shall have power by ordinance or resolution to prescribe limits in the city within which no wooden building shall be constructed, removed, added to or enlarged within which all buildings and partition walls shall be constructed of stone, concrete, brick, tile or metal, with fireproof roofs, and within which no wooden building shall be repaired or rebuilt whenever it shall be damaged by fire to the extent of fifty per centum of its value, such damage to be determined by the board of fire commissioners, and the common council may alter and extend such limits from time to time. The term "wooden building," as used in this section, shall be construed to include a wooden building covered with metal or plaster. The common council shall have power by ordinance or resolution to provide that before any building shall be constructed, enlarged or moved within the corporate limits of the city of Geneva a plan of the same, showing the location and furnishing such other information as the ordinance or resolution may reasonably require, shall be filed with and be approved by the board of fire commissioners and that no building shall be constructed, enlarged or moved except in conformity to a plan so approved. The common council shall also have power, by ordinance or resolution, whenever it shall determine that public safety and protection against fire so require, to compel the removal and regulate the erection and maintenance of all telegraph, telephone or electric light wires or cables or other appliances for conducting electricity and the poles connected therewith, in any place within the corporate limits of the city of Geneva. For violation of any ordinance or resolution made pursuant to the provisions of this section the common council may prescribe a penalty and fine to the amount of two hundred and

L. 1897,
ch. 360,
§ 44,
2d para-
graph, as
amended
by L. 1905,
ch. 461,
made
§ 44a and
amended.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1899, ch. 614.

fifty dollars, and imprisonment in the county jail not exceeding one hundred days; and such penalty, fine and imprisonment may be again imposed in case of continuing the construction, reconstruction, repair, enlargement or moving prohibited by such ordinance or resolution. Upon the trial for a violation of such ordinance or resolution, the records of the board of fire commissioners shall be evidence of every determination of that board. And the common council shall also have power to pass such ordinances for the government and discipline of the fire department as the board of fire commissioners may request.

§ 52, as amended by L. 1910, ch. 540, amended.

§ 2. Section fifty-two of such chapter, as amended by chapter five hundred and sixty of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 52. **Action to restrain violation.** The city may maintain an action to restrain by injunction the violation of any ordinance of the common council, the board of public works or the board of health, notwithstanding such ordinance may provide a penalty for such violation, and in the event of the construction, reconstruction, repair, enlargement or moving of any building within the corporate limits of the city in violation of the provisions of this act, or of any ordinance or resolution made pursuant thereto, the city may maintain an action to compel the removal of such building by a mandatory injunction or any other appropriate remedy.

§ 65a, as added by L. 1905, ch. 461, repealed.
§ 111, subd. 5, amended.
Annual city tax.

§ 3. Section sixty-five-a of such chapter, as added by chapter four hundred and sixty-one of the laws of nineteen hundred and five, is hereby repealed.

§ 4. Subdivision five of section one hundred and eleven of such chapter is hereby amended to read as follows:

5. The amount necessary to pay the salaries and wages of all officers and servants of the city, the expense of the prevention and extinguishment of fires, and all other necessary, ordinary and contingent expenses of the city not otherwise provided for which, with all other moneys received by the treasurer, not belonging to any other fund specified by this act, shall be kept as a separate fund to be called the general city fund. Provided, that the amount of the tax raised in any year for all the expenses provided for in this act shall not exceed one per centum of the value of the real and personal property within the city as the same shall appear on the assessment-roll for the last preceding year; exclusive, however, of the taxes certified to the city clerk by the board of supervisors as provided in the first paragraph of this section, and exclusive of assessments made for local improvements or local benefits which are assessed against the property benefited and are not payable by the city at large.

§ 144, as amended by L. 1921, ch. 508, amended.

§ 5. Section one hundred and forty-four of such chapter, as last amended by chapter five hundred and five of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

³ Previously amended by L. 1899, ch. 31; L. 1917, ch. 373.

§ 144. **Paving; procedure and assessment of the cost.** If the board of public works shall decide on its own motion that any street or section of a street, public place or square ought to be paved, repaved, resurfaced, repaired or graded, or if the owners of more than one-half of the real estate fronting thereon, exclusive of any portion thereof owned by the city, shall petition it therefor, it shall publish for at least two weeks a notice in one or more of the newspapers published in the city, that at a time and place to be therein specified, it will meet to make a final determination in respect thereto. Such notice shall contain a brief description of the character, location and extent of the improvement, and shall name the material, or two or more materials in the alternative, to be used therein. Any person interested shall be entitled to be heard at such meeting in opposition to such improvement. If before such meeting a protest against the improvement, in writing, signed by the owners of two-thirds of the frontage upon such street, section of a street, public place or square, and acknowledged as deeds of real estate are required to be acknowledged, be filed with said board, it shall not order the proposed improvement, nor shall it again consider the same within one year; but the owners of a majority of the frontage of a smaller section of the same street, not less than one block, may file with said board a petition therefor, and in that case said board may order the improvement as therein requested. If the board shall finally determine to make the improvement, it shall record and order therefor in its minutes, and thereupon the said board may enter into a contract or contracts for the carrying out of the improvement or otherwise cause such improvement to be made.

Upon the completion of the improvement, the board of public works shall ascertain the whole cost thereof and shall apportion the same upon all the real estate fronting upon the street, section of a street, public place or square so improved in proportion to the frontage of the respective lots and parcels thereof, first deducting the portion thereof hereby imposed upon the city, the portion thereof which any railroad corporation may be liable to pay and the cost of constructing all laterals or conduits which are chargeable against the parcels of real property benefited thereby. The board of public works shall report such apportionment and a list of all the lots and parcels of land liable to assessment, with their respective frontages, to the common council. It shall also report to the common council the portion of the cost of such improvement for which the city is liable, the portion thereof which any railroad corporation may be liable to pay and a list of the parcels of real property for the benefit of which laterals or conduits may have been constructed with the cost of such construction chargeable against each. The common council shall assess upon any railroad corporation its share of the cost of said improvement in the same manner as other assessments for local improvements. The common council shall assess the residue of such expense, except the cost of constructing laterals or con-

duits, upon all the real estate fronting upon said street, section of a street, public place or square, as hereinbefore provided, in proportion to the frontages of said lots and parcels of real estate respectively, and shall designate in such assessment the names of the owners of said real estate and the number of feet of frontage owned by each of them respectively. It shall also assess against each parcel of real estate, for the use and benefit of which a lateral or conduit has been constructed, the cost of constructing the same, as reported by the board of public works, and shall add the same to the amount of the assessment against such parcel of real estate made as hereinbefore provided.

§ 147, as
added by
L. 1917,
ch. 373,
amended.

§ 6. Section one hundred and forty-seven of such chapter, as added by chapter three hundred and seventy-three of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 147. **Laying out or alteration of streets.** Whenever the board of public works shall decide that any street or section of a street or any public place or square ought to be laid out, altered, opened, widened, extended or straightened, it shall cause a survey and map to be made showing the proposed improvement, which survey and map shall be filed in the office of the board, and it shall determine whether the proposed improvement shall be made wholly at the expense of the city, or wholly at the expense of the real property which shall be benefited by such improvement, or partly at the expense of the city and partly at the expense of the real property to be benefited by such improvement and, in the latter case, the portion of the cost to be borne by each. And in case that it shall determine that the cost of such improvement shall be borne wholly or partly by the real property to be benefited thereby, it shall determine the area within which the real property will be benefited by and shall be assessed for the cost of such improvement. The said board shall publish a notice in one newspaper published in the city once in each of two successive weeks immediately preceding such meeting that it will meet at a time and place specified in such notice to make its final determination in regard to making such improvement and, if any part of the cost thereof is to be assessed upon the real property benefited thereby, such notice shall contain a description of the area deemed benefited and which will be assessed for the cost of such improvement.

At the time and place stated in such notice the board of public works shall meet and shall hear all persons who desire to be heard in favor of or against such improvement and, if any part of such improvement is to be charged upon the real property benefited thereby, as to the portion of the cost to be assessed on such real property and as to the area to be assessed therefor. After such hearing, the board of public works may change the character or location of such improvement, and cause the map of the same to be revised accordingly, and it may alter or amend any determination made in its original resolution, in which case a new notice shall be published and a new hearing shall be had

in the manner hereinbefore provided. If the board of public works shall finally determine to make any such improvement after notice and hearing as hereinbefore provided, it shall record an order to that effect in its minutes containing a description of the character and location thereof, of the lands necessary to be taken therefor, of the portion of the cost to be paid by the city, if any, of the portion thereof, if any, to be assessed upon the real property benefited thereby and, if any portion of such cost is to be assessed upon the real property benefited, a description of the area within which such assessment is to be made.

If the proposed improvement is to be made wholly or partly at the expense of the city, the board of public works shall immediately transmit to the common council a copy of such order and of the plan of such improvement. If the common council shall by resolution authorize such improvement to be made, or if such authorization shall not be necessary, the board of public works may acquire the lands necessary for such improvement by purchase and conveyance to the city, or, in its discretion, it may proceed to acquire the same or any part thereof for the city by condemnation proceedings. Such proceedings shall be conducted in accordance with the provisions of the condemnation law except as is otherwise herein provided.

In any proceeding to acquire real property for the purposes mentioned in this section the petition shall set forth the fact that the public use for which the property is required is one of those mentioned in this section and that all the preliminary steps herein prescribed have been duly taken, but it shall not be necessary to set forth any of the other facts required to be set forth by subdivisions one, three, five, six or seven of section four of the condemnation law.

The court in which such proceeding is pending may, at any stage of the proceeding and without any security or deposit of money, direct that the city may immediately enter upon the real property to be taken and devote it to the public use specified in the petition. But, if such order is made, the proceeding shall not thereafter be discontinued or abandoned without the consent of the owner.

Upon the application of the city, the court in which such proceeding is had shall set off, against any amount directed to be paid to an owner as compensation or for costs, any assessment that may lawfully be made against the same owner for the same improvement and, upon proof that any person so entitled to an award is also liable to an assessment, the court must stay the payment of such award until such assessment can be made and confirmed.

Upon the completion of such improvement the board of public works shall determine the whole cost thereof, including the purchase price paid for all real property acquired for that purpose or for compensation and costs awarded, together with all expenses for surveys, maps, abstracts of title, advertising and interest, the expense of condemnation proceedings, if any, and all other ex-

penses incidental thereto, and shall determine the amount to be paid by the city, if any, and the amount to be paid by the real property benefited, if any, in accordance with the order authorizing such improvement. And, if any part of the cost is to be assessed upon the real property benefited, the board of public works shall apportion the cost of such improvement which is chargeable to the real property benefited, in accordance with the order authorizing such improvement, upon all the parcels of real property within the area determined upon in such order and in proportion to the benefit received by each. In making such apportionment the board of public works shall designate each parcel of land liable to assessment by the name of the owner thereof, or by such other description as may be sufficient to identify the same, and shall set down opposite such designation the amount apportioned to and to be assessed upon each parcel. The board of public works shall thereupon publish a notice in one newspaper published in the city once in each of two successive weeks immediately preceding such meeting that it will meet at a time and place specified in such notice to review its said apportionment. Such notice shall name the improvement and describe the area within which the real property will be assessed for the cost of such improvement and shall state that the apportionment of the cost of such improvement chargeable to the real property benefited has been made and that such apportionment will remain open for inspection in the office of the board of public works until the time of such meeting. At the time and place stated in such notice the board of public works shall meet and hear any person conceiving himself to be aggrieved by such apportionment and, after hearing and examining the complaint of any such person, shall review and revise such apportionment. And when the board of public works shall finally have determined upon such apportionment, it shall report to the common council the whole cost of such improvement, the amount to be paid by the city, if any, the amount to be paid by the owners of the real property benefited, together with its apportionment of the same and a list of all the lots and parcels of land liable to assessment with the amounts of their respective assessments. If no part of the cost is chargeable to the real property benefited the said board shall report the whole cost of such improvement without making any apportionment thereof.

The common council shall assess the portion of the cost of such improvement to be borne by the real property benefited, if any, upon all the real property included within the area designated and in accordance with the apportionment reported by the board of public works and shall designate in such assessment the names of the owners of such real property and the amounts of their respective assessments. If any assessment shall be set off against an award, a certified copy of the order providing for such set off shall be filed with the city treasurer and he shall collect only the balance of such assessment in excess of such award, if any.

§ 7. Section one hundred and forty-eight⁴ of such chapter is hereby renumbered section one hundred and fifty-four.

§ 148 re-
numbered
§ 154.
New § 148
added.

§ 8. Such chapter is hereby amended by adding thereto a new section, to be section one hundred and forty-eight, to read as follows:

§ 148. **Sewers.** Whenever the board of public works shall decide that any sanitary sewer, storm sewer, drain, covered water course, outlet or outfall ought to be constructed or reconstructed, unless the construction of such drain or storm sewer shall be included in the work of paving, repaving, resurfacing or repairing a street, public place or square, it shall cause a plan and estimate of the cost of the proposed improvement to be made, which plan and estimate shall be filed in the office of the board, and it shall determine whether the proposed improvement shall be made wholly at the expense of the city, or wholly at the expense of the real property which shall be benefited by such improvement, or partly at the expense of the city and partly at the expense of the real property to be benefited by such improvement and, in the latter case, the portion of the cost to be borne by each. And, in case that it shall determine that the cost of such improvement shall be borne wholly or partly by the real property to be benefited thereby, it shall determine the area within which the real property will be benefited by and shall be assessed for the cost of such improvement. The said board shall publish a notice in one newspaper published in the city once in each of two successive weeks immediately preceding such meeting that it will meet at a time and place specified in such notice to make its final determination in regard to making such improvement and, if any part of the cost thereof is to be assessed upon the real property benefited thereby, such notice shall contain a description of the area deemed benefited and which will be assessed for the cost of such improvement.

At the time and place stated in such notice the board of public works shall meet and shall hear all persons who desire to be heard in favor of or against such improvement and, if any part of such improvement is to be charged upon the real property benefited thereby, as to the portion of the cost to be assessed on such real property and as to the area to be assessed therefor. After such hearing, the board of public works may change the character or location of such improvement and cause the plan and estimate of the same to be revised accordingly, and it may alter or amend any determination made in its original resolution, in which case a new notice shall be published and a new hearing shall be had in the manner hereinbefore provided. If the board of public works shall finally determine to make any such improvement after notice and hearing as hereinbefore provided, it shall record an order to that effect in its minutes containing a description of the character and location thereof, of the portion of the cost to be paid by the city, if any, of the portion thereof, if any,

⁴ As amended by L. 1899, ch. 31.

to be assessed upon the real property benefited thereby and, if any portion of such cost is to be assessed upon the real property benefited, a description of the area within which such assessment is to be made.

If the proposed improvement is to be made wholly or partly at the expense of the city, the board of public works shall immediately transmit to the common council a copy of such order and of the plan and estimate of the cost of such improvement. If the common council shall by resolution authorize such improvement to be made, or if such authorization shall not be necessary, the board of public works may enter into a contract or contracts for the carrying out of the improvement or otherwise cause such improvement to be made.

Upon the completion of such improvement the board of public works shall determine the whole cost thereof, including all expenses of surveys, maps, advertising and interest, and all other expenses incidental thereto, and shall determine the amount to be paid by the city, if any, and the amount to be paid by the real property benefited, if any, in accordance with the order authorizing such improvement. And, if any part of the cost is to be assessed upon the real property benefited, the board of public works shall apportion the cost of such improvement which is chargeable to the real property benefited, in accordance with the order authorizing such improvement, upon all the parcels of real property within the area determined upon in such order and in proportion to the benefit received by each. In making such apportionment the board of public works shall designate each parcel of land liable to assessment by the name of the owner thereof, or by such other description as may be sufficient to identify the same, and shall set down opposite such designation the amount apportioned to and to be assessed upon each parcel. The board of public works shall thereupon publish a notice in one newspaper published in the city once in each of two successive weeks immediately preceding such meeting that it will meet at a time and place specified in such notice to review its said apportionment. Such notice shall name the improvement and describe the area within which the real property will be assessed for the cost of such improvement and shall state that the apportionment of the cost of such improvement chargeable to the real property benefited has been made and that such apportionment will remain open for inspection in the office of the board of public works until the time of such meeting. At the time and place stated in such notice the board of public works shall meet and hear any person conceiving himself to be aggrieved by such apportionment and, after hearing and examining the complaint of any such person, shall review and revise such apportionment. And, when the board of public works shall finally have determined upon such apportionment, it shall report to the common council the whole cost of such improvement, the amount to be paid by the city, if any, the amount to be paid by the owners of the real property benefited, together with its apportionment of

the same, and a list of all the lots and parcels of land liable to assessment with the amounts of their respective assessments. If no part of the cost is chargeable to the real property benefited, the said board shall report the whole cost of such improvement without making any apportionment thereof. The common council shall assess the portion of the cost of such improvement to be borne by the real property benefited, if any, upon all the real property included within the area designated and in accordance with the apportionment reported by the board of public works and shall designate in such assessment the names of the owners of such real property and the amounts of their respective assessments.

Nothing herein contained shall apply to the construction of lateral sewers for the use of single parcels of private property.

§ 9. Section one hundred and forty-eight-a of such chapter, as added by chapter three hundred and seventy-three of the laws of nineteen hundred and seventeen, is hereby repealed.

§ 142a, as
added by
L. 1917,
ch. 372,
repealed.
§§ 149-152
added.

§ 10. Such chapter is hereby amended by adding thereto five new sections, to be sections one hundred and forty-nine, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-two and one hundred and fifty-three, to read, respectively, as follows:

§ 149. **Payments during progress of the improvement.** At any time after the board of public works shall have finally determined to make any of the local improvements mentioned in this title and the same shall have been authorized by the common council, if such authorization shall be necessary, it may make an estimate of the whole cost of such improvement and transmit the same with a copy of its final determination to the common council. The common council shall thereupon borrow such sum or sums of money, not exceeding the amount of such estimate, as may be necessary for the construction of the work or the acquisition of property during its progress and for that purpose issue the promissory notes of the city of Geneva and renew the same from time to time until the cost of the improvement shall have been provided for in the manner hereinafter provided.

§ 150. **Notes to cover cost of the improvement.** Whenever the board of public works shall make a report as to the whole cost of any such local improvement, the common council may borrow any amount necessary to cover the whole cost of the same, as so reported by the board of public works, in excess of any moneys already borrowed for that purpose, and for that purpose may issue the promissory notes of the city of Geneva and renew the same from time to time until the cost of such improvement shall have been provided for in the manner herein provided. All moneys so borrowed shall be paid into the highway fund or the sewer fund and shall be used only for the purpose of defraying the cost of such improvement.

§ 151. **Payment of the city's share of the cost.** The common council shall include the share of the cost of any such local improvement for which the city is liable in the next tax levy and

all moneys raised by tax for that purpose shall be applied within one year to the payment of the moneys borrowed on account of such improvement. But the common council may, in its discretion, instead of including the share of the cost of such improvement for which the city is liable in the next tax levy, issue the bonds of the city of Geneva for the amount of the same, or any part thereof, in such amounts and for such times as it shall deem advisable. Any bonds, however, so issued shall not be sold for a sum less than the par value thereof and shall bear interest at a rate not exceeding six per centum per annum. The provisions of section one hundred and eleven of this act shall apply to the payment of the principal and interest of such bonds.

§ 152. **Notice of assessment and confirmation.** Whenever the common council shall make an assessment of the cost of any such local improvement, it shall cause a notice to be published in one or more newspapers published in the city, for two weeks, that such assessment has been made and that the common council will meet at a time and place to be stated in said notice to hear any objections which may be made to such assessment, and in the meantime the said assessment may be examined, without expense, by any person desiring to examine the same. At the time and place specified in such notice the common council shall hear such objections as may be made to such assessment and shall review the same. It may adjourn such proceedings from time to time and may alter and amend the said assessment in its discretion. When the common council shall deem the assessment to be correct it shall confirm the same. Upon confirmation of the assessment the amount assessed upon any railroad corporation shall become and be a first lien upon all the franchises and property of such railroad corporation within the corporate limits of the city and the amount assessed against each parcel of real property shall become and be a first lien upon such parcel of real property until fully paid. Every such assessment, after being confirmed, shall be collected forthwith or, in the discretion of the common council, at the time of the collection of the next annual city tax, except as provided in section one hundred and fifty-four of this act. Every such assessment shall be collected by the treasurer in the same manner as taxes are collected and the amount thereof shall be placed in the highway fund or the sewer fund and shall be expended only for the purpose of paying for such improvement or of repaying money borrowed on account of the same.

§ 153. **New apportionment or assessment.** In case any apportionment or assessment heretofore or hereafter made for a local improvement shall have been or shall be set aside by any court of this state having competent jurisdiction, or shall fail or shall have failed through any irregularity in making or confirming such apportionment or assessment, it shall be lawful for and be the duty of the common council forthwith to cause a new apportionment or assessment, including the interest and expenses of the former apportionment or assessment, to be made and to be levied and collected; and such new apportionment and assess-

ment shall have the same force and effect as though no former apportionment or assessment had been made.

§ 11. Sections one hundred and forty-nine to one hundred and seventy of such chapter, including sections added thereto by chapter two hundred and ninety-six of the laws of nineteen hundred and one, chapter three hundred and twenty-three of the laws of nineteen hundred and nine and chapter three hundred and ninety-one of the laws of nineteen hundred and eleven, are hereby re-numbered sections one hundred and fifty-five to one hundred and seventy-six, respectively. §§ 149-170
renum-
bered
§§ 155-170.

§ 12. This act shall take effect immediately.

CHAPTER 442

AN ACT to enable the city of Geneva to acquire and make payment for lands of the Cayuga and Seneca canal that may be abandoned.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever any lands or structures of the Cayuga and Seneca canal, lying in the towns of Waterloo and Fayette, between the new pre-emption line and the present outlet of Seneca lake (constituting part of the barge canal), shall be abandoned and appraised pursuant to the provisions of section fifty-three of the public lands law, the commissioners of the land office may sell such lands or structures, in whole or in part, to the city of Geneva at the appraised value thereof on such terms as may be advantageous to the state, provided that such city file with the commissioners of the land office, within four months after the adoption of a resolution of abandonment, as provided for in section fifty-three of the public lands law, a written notice of its intention to purchase the whole or a part of such lands or structures and, upon so filing such notice, the city of Geneva shall be first entitled to purchase either the whole or a part of such lands or structures as may be indicated by such notice, provided such purchase is made within the time and upon the terms as to payment of the purchase price fixed by the commissioners of the land office. The common council of the city of Geneva is hereby authorized to acquire such lands and to provide means of payment therefor. Sale to
city au-
thorized.

§ 2. In case that the city of Geneva shall purchase any of the lands or structures mentioned in the preceding section or shall purchase the whole or any portion of the lands or structures of the Cayuga and Seneca canal situate in the city of Geneva, which may be abandoned and appraised pursuant to section fifty-three of the public lands law, the common council of the city of Geneva Bond issue
for pay-
ment au-
thorized.

is hereby authorized to issue the bonds of the city of Geneva for the amount of the purchase price, or any part thereof, in such amounts and for such times as it shall deem advisable. Any bonds so issued shall not be sold for a sum less than the par value thereof and shall bear interest at a rate not exceeding six per centum per annum.

§ 3. This act shall take effect immediately.

CHAPTER 443

AN ACT to amend the Glen Cove charter, generally.¹

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1917,
ch. 787,
§ 26
amended.

Section 1. Section twenty-six of chapter seven hundred and eighty-seven of the laws of nineteen hundred and seventeen, entitled "An act to incorporate the city of Glen Cove," is hereby amended to read as follows:

§ 26. **The commissioner of accounts.** The commissioner of accounts shall have the following powers and duties as head of the department of accounts:

To act as purchasing agent;

To act as collector of license fees, rents and all moneys due to the city, except taxes, assessments and water rates;

To give a bond to the city for the faithful performance of his duty, to be approved by the mayor.

As purchasing agent he shall procure all supplies, equipment and materials ordered by the city council in such manner as it may direct. He shall also procure all supplies, equipment and materials for each department upon requisition in writing describing the article, the probable cost, if known, and the time when required, except in cases of extreme emergency where the work of the commissioner of public works or the commissioner of public safety might be delayed to the material injury or inconvenience of public interests for lack of the necessary supplies, equipment and materials immediately required, in which case such supplies, equipment and materials not exceeding a cost of two hundred dollars at any one time, may be obtained by either commissioner, and the facts immediately reported to the commissioner of accounts.

Whenever practicable the commissioner of accounts shall advertise in one or more newspapers, or by letter to several dealers, for bids for the supplies, equipment and materials required,

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

where the estimated value of one kind exceeds two hundred dollars.

Prices paid for supplies, equipment and materials shall not exceed the customary prices paid by individuals for the same articles.

The provisions herein regarding supplies, equipment and materials shall not apply to supplies, equipment and materials provided for in the prison law.

§ 2. Section thirty-one of such chapter, as amended by chapter five hundred and five of the laws of nineteen hundred and nineteen, is hereby amended to read as follows: § 21, as amended by L. 1919, ch. 506, amended.

§ 31. **Employees, and compensation.** Each commissioner shall be entitled to such deputies, employees and laborers, and at such compensation and with such bonds as the council may determine; appointments to be made by the head of each department and ratified or confirmed by the council. Appointments to positions in the exempt class under the civil service shall be only at the pleasure of, and not longer than the term of the officer making the appointment and until the appointment and qualification of the successor.

No official or employee receiving a salary from the city shall receive other compensation in any form for any official act under the city government other than for the performance of duties as an election officer.

§ 3. Section thirty-three and sixty-one of such charter are hereby amended to read as follows: §§ 33, 61 amended.

§ 33. **Removals from office.** The mayor and commissioners of the city may be removed by the governor for cause after hearing.

The city judge may be removed by the appellate division of the supreme court, second department, for cause after hearing.

Each appointee, employee, and laborer may be removed by the officer appointing him as provided in the civil service law.

§ 61. **City court.** A court of civil and criminal jurisdiction known as the city court of Glen Cove, with a city judge, is established in and for the city, with the same jurisdiction and powers, and with the same procedure, including appeals therefrom, as courts of justices of the peace in towns, except that the civil jurisdiction where now limited to two hundred dollars is increased to and including four hundred dollars.

The city judge shall possess all the powers and perform the duties of justices of the peace in towns, except where inconsistent with this act.

The city judge shall also possess the powers and perform the duties of justices of the peace of towns in cases of bastardy. The proceedings shall be governed by the provisions of the code of criminal procedure except that they may be held by the city judge with the same force and effect as if two magistrates were present.

The city judge shall also possess the power and perform the duties of coroner as provided by statute in the case of justices of the peace.

The city judge shall be elected as provided in this act and shall hold office for a term of four years and shall receive a salary of two thousand dollars per year payable monthly.

To be eligible for office the city judge shall be a lawyer and a resident of the city. He shall take and file with the county clerk the oath of office prescribed by law.

The city judge shall appoint a clerk at a compensation to be fixed by the council. The clerk shall have the power to issue summonses, subpoenas, executions, transcripts, enter joinder of issue, adjourn proceedings and act as official court stenographer, and the minutes of such stenographer shall be the official minutes of the court in all proceedings. The city judge may appoint a city marshal, at a compensation to be fixed by the council, who shall have the same powers and duties and shall be subject to the same liabilities as constables in civil actions and proceedings. The marshal shall, before entering upon the discharge of his duties, file with the city clerk a bond in the form required of constables to be approved by the mayor.

The court shall be open on each business day from nine o'clock in the forenoon and remain open during reasonable hours.

The same fees shall be charged as by justices of the peace in towns, to be accounted for and paid to the commissioner of finance on the first day of each month.

The person against whom costs are awarded shall, in addition to the disbursements necessarily made or to be made, pay to the prevailing party if represented by attorney, the following sums which shall be included in the judgment:

To the plaintiff:

If upon a trial, the following amounts: If the recovery is over twenty dollars, and less than fifty dollars, five dollars.

If the recovery is not less than fifty dollars nor more than two hundred dollars, ten dollars.

If the recovery is more than two hundred dollars, fifteen dollars.

If upon default, or settlement after service of summons, one-half of the above amounts.

If a counterclaim is interposed in excess of the plaintiff's claim, the costs shall be computed at the above rates upon the amount of the counterclaim, instead of upon the amount recovered.

To the defendant:

Costs at the above rates based upon the amount of the plaintiff's claim, but if the defendant recover more than the amount claimed by the plaintiff, the costs shall be based upon the amount recovered.

The mayor may, from time to time, designate a person with the same qualifications to act in the temporary absence or disqualification of the city judge, with the same jurisdiction. The person so designated shall receive two and one-half dollars for each half day service, to be paid for by the city, but not exceeding a total of one hundred dollars in any year. Thereafter the compensation shall be deducted from, and paid out of the salary of the city judge.

Should a vacancy occur in the office of city judge the council shall appoint a person with the same qualifications, to fill said vacancy, who shall hold office until the election and qualification of a person to be nominated and elected at the next municipal election. The term of office of the city judge shall be four years.

§ 4. Sections one hundred and twenty-one, one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-four of such charter, as amended by chapter five hundred and five of the laws of nineteen hundred and nineteen, are hereby amended to read as follows: §§ 121-124, as amended by L. 1919, ch. 505, amended.

§ 121. **Estimates and budget.** On or before the fifteenth day of September in each year the mayor, the several commissioners, the supervisors, the city judge, the city clerk, the board of education, the board of library trustees, the civil service commission, the board of assessors and all other departments, boards or bureaus, shall send to the commissioner of finance a detailed statement of the amount, with the objects thereof, required for their respective departments during the ensuing fiscal year.

On or before the first day of October, in each year, the commissioner of finance shall report to the council a detailed estimate of the amount of income from all sources, exclusive of taxes, and a detailed estimate of the amounts required to be levied to defray all expenses and liabilities of each department of the city government for the ensuing year.

On or before the tenth day of October in each year, the council shall make a detailed budget of the amounts required to be levied to defray all expenses and liability of the city government for the ensuing fiscal year to which shall be added the budget for state and county tax to be paid by the city of Glen Cove, as apportioned and adopted by the board of supervisors of the county of Nassau, which shall consider the city of Glen Cove for that purpose, as a town of the county.

Thereupon the commissioner of finance shall apportion and set down opposite the several valuations of properties the sum to be paid as a tax thereon, and all other liens and assessments.

When completed the council shall confirm the roll and thereupon the roll shall be delivered to the commissioner of finance for collection.

§ 122. **Collection of taxes.** Upon receipt of the completed roll the commissioner of finance shall publish notice of the receipt thereof and that during a time and at a place specified he will receive payment of the taxes due.

All taxes upon personal property and one-half of all taxes upon real estate shall be due and payable on the first day of December, and the remaining and final one-half of taxes on real estate shall be due and payable on the first day of June. All taxes shall be and become liens on the real estate affected thereby and shall be construed and deemed to be charged thereon on the respective days when they become due and payable as hereinbefore provided and shall remain such liens until paid.

The second half of the tax on real estate which is due as here-

inbefore provided on the first day of June following the payment of the first half may be paid on the first day of December or at any time thereafter, provided the first half shall have been paid or shall be paid at the same time.

One-half of the state and county taxes shall be payable to the county treasurer at the times and in the manner provided in the tax law, and the remaining one-half on or before August first.

§ 123. **Tax penalties.** Taxes paid on or before the tenth day of January and on or before the tenth day of July, respectively, shall be received without penalty. Thereafter and within six months, five per centum shall be added, and thereafter, in addition to said five per centum, one per centum per month or fraction thereof for the first twelve months, two per centum per month or fraction thereof for the next twelve months and three per centum per month or fraction thereof for each month thereafter shall be added, which penalties shall be in addition to the collector's fees, if any.

§ 124. **Warrants for collection of taxes.** The commissioner of finance may deliver to the city marshals on the first day of August in each year a warrant for the collection of all unpaid personal taxes and penalties thereon. The marshal shall execute the warrant in the same manner as an execution against personal property issued out of the city court, and be entitled to the same fees thereon. He shall make immediate payment to the commissioner of finance of all collections, less his fees, accompanied by a written statement of the amount, and by whom paid, and shall return his warrant at the expiration of two months from the receipt thereof with a detailed statement verified by him, of his collections, and fees and of the persons in default.

The commissioner of finance shall not receive any tax from the individual taxed during the time when the warrant is in the hands of the marshal for collection, without adding the fees to which the marshal would be entitled if the collection had been made by him, which fee shall be paid to the marshal.

§§ 141,
142
amended.

§ 5. Sections one hundred and forty-one and one hundred and forty-two of such charter are hereby amended to read as follows:

§ 141. **Date of primaries and municipal elections.** Candidates shall be nominated by a primary election to be held in each odd numbered year on the same day and at the same time as the state primary election is held.

The municipal election shall be held in each odd numbered year on the same days as the general state election is held.

§ 142. **First officials of the city; election in nineteen hundred and seventeen.** The first officials of the city shall be elected at the general election in this state to be held on the first Tuesday after the first Monday in November, nineteen hundred and seventeen. The officials elected at said election shall take office on the first day of January, nineteen hundred and eighteen, and shall hold office for the terms respectively as provided by this act. All other elections held under the provisions of this charter, excepting primary elections, shall be known as special municipal elec-

tions. All elections shall be conducted and the votes cast thereat canvassed and the returns thereof made in all respects and in the same manner as general elections in cities are required to be conducted, and all provisions of law relative to such elections shall be applicable to the election for officers of the city. Independent nominations of candidates for commissioners, mayor and supervisor, city judge, and assessor, shall be made by petitions signed by not less than three per centum of the electors qualified to vote at such municipal election. Each such petition shall be made and filed in the manner prescribed by the election law for independent certificates of nomination, except that the execution of the petition by an elector shall be acknowledged by him, or it may be proved by the oath of a witness, who shall swear that he knew the elector and that the petition was signed by the elector in the presence of the witness. The petition may be in the form of separate sheets, each sheet containing at the top thereof the petition as above set forth, and when bound together and offered for filing these shall be deemed to constitute one petition. The provisions of the general election law, relating to the filing of independent certificates of nomination, shall apply, as to the time of filing, to all such certificates. In each district for the election of officers under this act there shall be a ballot box and other boxes required by the general election law of this state. Upon the closing of the polls, inspectors shall forthwith without adjournment, canvass the votes, and shall make and certify statements of the result in the manner required by the general election laws of the state. Separate returns as to the city officers voted for shall be filed in the office of the city clerk on the next day succeeding the election. The city clerk shall deliver such statement and certificate to the council at its next meeting, and the council upon such statement and certificates shall declare and determine what persons have been duly elected to the respective offices voted for at such election. The returns of elections held prior to January first, nineteen hundred and eighteen, shall be filed with the county clerk of the county of Nassau and with the election commissioners. Said election commissioners shall declare and determine what persons have been duly elected to the respective offices. The election law of the state of New York applicable to third class cities shall govern the first primary and municipal elections and the registration preceding the same in the territory embraced in the city of Glen Cove. Such elections shall be held on the days and in the manner specified in this title and in the election law of the state of New York, anything which might appear contrary to this act notwithstanding. The general election law shall govern in all elections except where inconsistent with this act.

§ 6. This act shall take effect immediately.

CHAPTER 444

AN ACT to amend chapter eight hundred and seventy of the laws of nineteen hundred and eleven, entitled "An act to consolidate and revise the laws relating to the city of Lockport," in relation to publication of unpaid taxes.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
870, § 288
amended.

Section 1. Section two hundred and eighty-eight of chapter eight hundred and seventy of the laws of nineteen hundred and eleven, entitled "An act to consolidate and revise the laws relating to the city of Lockport," is hereby amended to read as follows:

§ 288. **Publication of unpaid taxes.** During the first week in February¹ in each year, the treasurer shall begin the publication in the official paper of the city, and shall continue such publication for twice in each week for three weeks, of a statement of all general city, highway and lighting,² taxes and assessments on the general roll of the preceding year, which remains in his hands unpaid, with a concise description of the parcels of real estate affected thereby, and a notice of the penalties to be incurred, as herein provided, in case of the non-payment thereof. The expense of the publication of such list and notice shall not exceed the sum of one dollar for each piece of land so advertised. The expense of such publication shall be added to the tax on each parcel, and collected from the person paying the same, or included in the transcript prepared by the treasurer.

§ 288a
added.

§ 2. Such chapter is hereby amended by adding thereto a new section, to be section two hundred and eighty-eight-a, to read as follows:

§ 288-a. [**Publication of unpaid school taxes.**]³ During the first week in June in each year, the treasurer shall begin the publication in the official paper of the city, and shall continue such publication for twice in each week for three weeks, of a statement of all general school taxes and assessments on the general roll of the preceding year, which remains in his hands unpaid, with a concise description of the parcels of real estate affected thereby, and a notice of the penalties to be incurred, as herein provided, in case of the non-payment thereof. The expense of the publication of such list and notice shall not exceed the sum of one dollar for each piece of land so advertised. The expense of such publication shall be added to the tax on each parcel, and collected from the person paying the same, or included in the transcript prepared by the treasurer.

§ 3. This act shall take effect immediately.

¹ Formerly "March."

² Words "general city, highway and lighting" new.

³ Section heading inserted by editor.

CHAPTER 445

AN ACT to amend the charter of the city of Lockport, generally.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seven of chapter eight hundred and seventy of the laws of nineteen hundred and eleven, entitled "An act to consolidate and revise the laws relating to the city of Lockport," as last amended by chapter five hundred and four of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 107. **Issue and sale of bonds.** Bonds or other obligations of the city shall be signed by the mayor and the city clerk. They shall be made payable at such times within thirty years after their respective issues, as the common council in such ordinances shall direct, and may be made payable in equal annual installments. Such bonds shall be issued in sums of not exceeding five thousand dollars each with interest payable at such times and places as the common council shall designate, at a rate not exceeding the legal rate¹ per annum. They shall be sold on sealed proposals or at public auction, upon notice published in the official newspaper, and in other newspapers or publications, such number of times as the common council may determine, prior to the time of such sale or the opening of such proposals.² The city treasurer shall award the same to the highest bidder at not less than par and accrued interest. The bonds shall be consecutively numbered from one to the highest number issued, and the city clerk shall keep a record of the number of each bond or obligation, its date, amount, rate of interest, when and where payable, and the purchaser thereof or the person to whom they are issued.³ This section shall not apply to the issuance and sale of bonds for local improvements.

§ 2. Sections two hundred and twenty-nine and two hundred and thirty-four of such chapter are hereby amended to read as follows:

§ 229. **Notice of receiving proposals; estimate of expense; assessments.** At the time of adopting the ordinance for a local improvement, or at any time thereafter, the common council shall give notice, or order and direct the same to be given, that proposals for the doing and completion of said work will be re-

¹ Words "the legal rate" substituted for words "five per centum."

² Remainder of sentence omitted which read: ".except bonds issued for local improvements which may be either delivered to the contractor doing the work upon such improvement, or may be sold or disposed of to any person or persons or corporations in the discretion of the common council."

³ Following sentence new.

L. 1911, ch. 870, § 107, as amended by L. 1920, ch. 504, amended.

§§ 229, 234 amended.

ceived. After the time in said notice specified for the reception of proposals shall have expired, the common council shall estimate as nearly as may be the expense of such improvement, and enter the same in its minutes. ³ Before awarding any contract for a public improvement the common council shall borrow money for the expense of such improvement estimated above upon certificates of indebtedness of the city, signed as directed by it in an amount equal to ninety-five per centum of the expense of such improvement as above estimated, such certificates to be payable not later than eight months after date and shall bear interest from date of issue, and shall bear interest at a rate fixed by the common council not exceeding the legal rate of interest per annum.

⁴ Should such certificates of indebtedness mature before funds for the payment of the costs of such improvement are raised by assessment and the sale of bonds as hereinafter provided, payment thereof may be made by funds borrowed by the city upon like certificates upon the same terms and rate of interest. The money so borrowed shall be used to pay the contractor in accordance with the terms hereinafter set forth and for the other expenses above mentioned, and for no other purpose.

⁴ The city engineer shall make an estimate of the work done and materials delivered to his satisfaction, from time to time during the progress of the work, in accordance with the specifications and terms of the contract entered into by the city of Lockport with the contractor, and certify in writing the amount of his estimate to the common council. The city shall pay not to exceed ninety per centum of the amount so certified, to said contractor in cash. But no such estimate or payment shall be deemed as final acceptance of the work.

⁴ Within thirty days after the completion of the work, the city engineer shall make a final estimate of the work done and certify in writing the amount due the contractor and the common council may pay the amount so certified in cash less any amount which may be retained not exceeding five per centum of the total cost of construction for a period not exceeding one year from the time of completion of the work as a guarantee against imperfect work in accordance with the terms of the contract.

The common council shall compute the total expense of such improvement including the interest on the certificate of indebtedness and other expenses as hereinafter set forth and enter the same in its minutes;⁵ and thereupon the same shall be equally assessed upon the real estate in said city which the common council deems benefited by the said improvement, according to the benefits that may result therefrom, to be estimated, apportioned, assessed and determined by the assessor ⁶ of said city, who shall ⁷ not

³ Following sentence new. .

⁴ Following paragraph new.

⁵ Paragraph to here new.

⁶ Formerly read: "one of the assessors."

⁷ Words "who shall" new.

be⁸ personally interested in the improvement ordered, and⁹ who shall be specified in the ordinance therefor; or, in case the assessor¹⁰ of said city shall be personally interested in said improvement, then by such other person not interested therein as said common council may appoint as a special assessor for that purpose; and in so doing the assessor shall assess the real estate to and against the owners or occupants thereof; but if a parcel of land be unoccupied, and the name of the owner is unknown, such parcel may be assessed in the name of "unknown owner." But in all cases where the local improvement is for paving, repaving, macadamizing, curbing or guttering a street or streets, the common council shall further estimate as nearly as may be the portion of the entire estimated expense to be assessed against the city at large, which shall be one-third of the total expense except as provided in section two hundred and twenty-three for the improvement of the main thoroughfares specified in that section.

The expense so estimated shall be entered in the minutes and shall be paid from the general fund in the same number of equal annual payments in which the balance of the assessment for such improvement shall be payable, and the amount of such annual payments may be included in the annual general tax levies of the several years through which said assessment is to run, except as herein otherwise expressly provided. The balance of the entire estimated expense of such improvement shall be equally assessed upon the real estate which the common council shall have declared benefited thereby in all respects as in this section above provided, and in all such cases, the determination of the common council that the expense of the improvement shall be defrayed by an assessment upon the real estate which it deems benefited thereby, as required by section two hundred and twenty hereof, shall be held to refer and relate to that portion of the expense not paid from the general fund, and the property upon which such expense is to be assessed shall be specified in the ordinance for such improvement and shall be the portion of the city deemed benefited thereby, within the meaning of said section.

§ 234. Number of annual payments; separate installments; release from tax. The common council may, at the time of the adoption of the ordinance for a local improvement, or at any time thereafter up to and at the time of the confirmation of the assessment thereof, determine by resolution in what number of equal annual payments such assessment may be paid by the person or corporation to whom the same shall be assessed, together with the rate of interest, not exceeding the legal¹¹ rate, to be paid thereupon. The first installment of said assessment shall become due and payable upon the confirmation of the assessment, and the remaining amount thereof in equal annual installments, beginning one year after the confirmation of said assessment, with

⁸ Word "be" new.

⁹ Word "and" new.

¹⁰ Formerly read: "all the assessors."

¹¹ Word "legal" substituted for word "lawful."

interest on the amount thereof from time to time remaining unpaid as aforesaid. In such case said assessment shall become due and be paid at the times and in the manner so specified, and upon the confirmation of said assessment by said common council the sums therein assessed upon the several parcels of land therein specified, together with the interest thereon from time to time accruing, shall become and be a lien and charge upon said parcels of land respectively, and in all future proceedings for the collection thereof, each installment shall be regarded as a separate tax; provided, however, that any person or corporation so assessed at any time after the assessment is confirmed and before the issuing of bonds¹² therefor, may have any separate lot or parcel of land released and discharged from the lien of such assessment by paying the whole amount of such assessment against such separate lot or parcel, together with such interest and fees as shall have accrued thereon up to the time of such payment and have any such separate lot or parcel so released and discharged at any time after the issuing of such bonds¹³ by paying the amount thereof then unpaid, together with any fees chargeable against the same, and interest accrued and to accrue thereon, sufficient to pay and cancel its just proportion of the interest then unpaid, and to accrue on such bonds.¹⁴

§ 235, as
amended by
L. 1918,
ch. 452,
amended.

§ 3. Section two hundred and thirty-five of such chapter, as amended by chapter four hundred and fifty-two of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 235. **Bonds for cost of improvement.** In case any assessment shall be made payable as last above provided, and for the purpose of providing the means to retire the certificates of indebtedness issued for the cost of construction of¹⁵ the improvement for which the assessment shall have been ordered, the common council shall issue the bonds of the city,¹⁴ signed by the mayor and city clerk. The amount of such bonds shall not exceed in the aggregate the proportion of said assessment remaining unpaid at the time of advertising the proposed sale of bonds,¹⁴ for the payment of which time is given as provided in the last section. Such bonds shall specify on account of what improvement the same was issued, and shall bear interest, whether due or past due, except as in this section otherwise provided, respectively, at the same rate as said assessment. The amount of the bonds so issued shall be divided so that an equal sum shall be made payable at the end of two months after each of the installments of said assessment, subsequent to the first installment, is respectively made payable. ¹⁵ The common council may sell or dispose of said bonds to any person or persons or corporation; but it shall not so use or dispose of the same below the par value thereof. Nor

¹² Word "bonds" substituted for words "certificates of indebtedness."

¹³ Words "to retire the certificates of indebtedness issued for the cost of construction of," substituted for words "to construct."

¹⁴ Remainder of sentence new.

¹⁵ Following sentence materially amended.

all it use such bonds or the proceeds thereof, or any portion of such bonds or proceeds, for any purpose other than to defray the expense of the improvement for which they were issued. No such bonds shall be made or issued until after the confirmation by the common council of the assessment made for the improvement, on account of which the bonds shall be issued, and the credit of the city shall be pledged for the redemption and payment thereof. The common council shall collect the assessments remaining undrawn for any improvement, on account of which any such bonds have been issued, as the same shall become due, and shall appropriate and use the money so collected to the payment and redemption of such bonds, and for no other purpose. Upon the maturity of any such bonds they shall be promptly presented to the city treasurer for payment and unless so presented they shall bear interest after maturity. Upon such presentation, the city treasurer shall apply all moneys in the appropriate fund, or as much thereof as may be necessary, to the payment thereof, and if there be not sufficient money in such fund to pay such bonds in full, he shall draw sufficient from the general fund to make good the deficiency, whatever the same may be, and shall forthwith report the facts to the common council. If it is not expedient or convenient to pay certain bonds so issued at maturity thereof the common council may, by resolution specifying the number of such bonds, adopted by a two-thirds vote of all the aldermen elected, provided the owner of such bonds consents and agrees thereto, extend the time for the payment thereof, not longer, however, than one year, at such rate of interest not exceeding the legal rate as may be agreed upon with the owner. The clerk shall enter in a book, to be provided for that purpose, a full and minute description of all bonds issued under this section, and the date of issue, and when the same or any part thereof are paid, the treasurer shall forthwith notify the clerk, who shall thereupon make a minute of such payment and of the date thereof in said book; and said bond, when fully paid, shall immediately thereupon be effectually cancelled.

4. Section two hundred and eighty-nine of such chapter is hereby amended to read as follows: § 289
amended.

289. Sale of lands conveyed to city; advertisement; terms of sale; proceeds. In cases where lands shall have been sold for and purchased by and conveyed to the city as hereinbefore provided, the city treasurer shall, on the direction from the common council, sell at the common council chambers, at such minimum amount as the common council shall direct, such lands at public auction to the highest bidder for cash. Notice of such sale, specifying the time, place, each parcel of land to be sold, the manner and terms of sale, shall be given by the treasurer by publication thereof in the official paper twice in each week for the three successive weeks next preceding the day of sale. Said sale shall be

Remainder of sentence formerly read: "the second Monday in September each year, at ten o'clock in the forenoon, at the common council chambers sell such lands at public auction to the highest bidder for cash."

open to all persons, and the same shall be fairly conducted, without preference or undue haste. Each lot or parcel of land shall be separately exposed for sale as far as practicable. At any time after the land shall have been sold for taxes and purchased by and conveyed to the city as hereinbefore provided, the city treasurer shall, upon the request of any person, advertise for sale and sell in the manner provided in this section any parcel or parcels of land so conveyed to the city.¹⁷ Such request to the city treasurer shall be in writing and signed by the party making the same, and shall contain an offer to bid upon such sale not less than fifty per centum of the assessed valuation of the property, as the same appears upon the assessment-rolls of the city of Lockport, and shall be accompanied by a certified check in the amount of ten per centum of the sum so agreed to be bidden, payable to the city treasurer, as a guaranty that the party so requesting such sale will bid thereon the amount specified, and in addition thereto, twenty-five dollars shall be deposited with the city treasurer to cover the expenses of such sale. On such sale the property shall not be sold for less than the amount specified in the written offer and if purchased by the party making such offer the amount of deposit shall be credited upon purchase price. If it shall be sold to some other party at an amount equal to the sum so agreed to be bid therefor, then the amount of such deposit shall be returned to the party making the same; but in case such property shall not sell for the amount so offered and such party shall fail to purchase the same on such sale for at least that amount, then the amount of such deposit to cover the expenses of sale and to guarantee the bid shall be forfeited to the city of Lockport, as liquidated damages for such failure to purchase. Upon payment by the purchaser of the sum for which any lot or parcel was sold, the treasurer shall execute and deliver to him a deed thereof, under the city seal, which the treasurer shall properly acknowledge, so as to entitle it to be recorded. In case any purchaser fails to complete his purchase of any parcel or parcels of land on the day of the sale, the sale shall be held open as to such parcel or parcels of land until the next following day at ten o'clock in the forenoon, when, if the sale be still incomplete, the lands shall be again exposed for sale without further notice, and sold in like manner as above prescribed. The money received from such sale shall be placed by the treasurer to the credit of the general fund.

§ 5. This act shall take effect immediately.

¹⁷ Words " , at a time other than the second Monday in September," omitted.

CHAPTER 446

AN ACT to legalize the proceedings of the city of Middletown, the common council and board of education thereof, in relation to the issuing and sale of bonds of said city for erecting a grammar school therein, and providing for the payment thereof.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All acts and proceedings of the city of Middletown, the common council and the board of education thereof, and officers and agents, in relation to the submission to the voters of said city at the general election held on the fourth day of November, 1919, of the question of issuing bonds to the amount of three hundred and fifty-six thousand dollars, to provide funds for the erection of a grammar school building in said city, and in relation to the issuance of bonds of said city pursuant to the said vote, are hereby legalized, ratified and confirmed notwithstanding any want of statutory power or authority or any irregularity or omission in such acts and proceedings, and the common council of said city are hereby authorized by resolution to fix the form and manner of issuing the said bonds, to provide for the execution thereof, and the sale thereof at not less than par, in the manner required by law. The said city and the common council and governing body thereof, in the form and manner provided by law, shall levy and collect in each year whilst the said bonds are outstanding and unpaid upon all taxable property in said city a tax sufficient to pay the interest upon the said bonds and the principal thereof as the same shall become due and payable.

Acts and proceedings legalized.

Bond issue authorized.

Tax for payment.

§ 2. This act shall not affect any action or proceeding now pending in any court.

Pending actions.

§ 3. This act shall take effect immediately.

CHAPTER 447

AN ACT to amend the membership corporations law, in relation to co-operative agricultural, dairy or horticultural associations.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter forty of the laws of nineteen hundred and nine, entitled "An act relating to membership corporations, constituting chapter thirty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section two hundred and six-a, to read as follows;

§ 206a added to L. 1908, ch. 40.

§ 206-a. **Optional methods of voting by members of certain associations.** For the purpose of this section the following classes of associations organized under this article shall be termed "central associations:"

1. Associations having more than five thousand members and the members of which are also members of local co-operative corporations of producers of agricultural, horticultural or dairy products.

2. Associations having members in and operating in more than one county, the members of which are either producers of agricultural, horticultural or dairy products or local co-operative corporations of such producers, or both, and in which central association a number of the individual members are also members of such local co-operative corporations.

A central association may by by-law provide for a method of voting by election of a delegate or delegates from the local co-operative corporations who shall represent the members of such local co-operative corporations in the meetings of the central association with such powers and representation as may be prescribed by the by-laws; or may prescribe a method for the receipt of ballots of such members at a meeting of the local co-operative corporation and for the canvass of the same at such meeting and the transmission of such ballots and canvass, certified as provided by such by-laws, to the meetings of such central association; or by a combination of both such methods. A central association may provide in its by-laws for division of the territory of its operations into districts and selection of a director resident in each district for such district.

In case of the adoption of a method or methods provided by this section by a central association, the provisions of section two hundred and six of this chapter shall be deemed inapplicable to such association, except that individual members of a central association who are not also members of a local co-operative corporation, as above provided, shall be entitled to vote in person or by ballot as provided in section two hundred and six of this chapter.

§ 2. This act shall take effect immediately.

CHAPTER 448

AN ACT to amend the membership corporations law, in relation to co-operative agricultural, dairy or horticultural associations.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 48, §§ 204, 206, 209, as added by L. 1918, ch. 655, amended.

Section 1. Sections two hundred and four, two hundred and six and two hundred and nine of chapter forty of the laws of nineteen hundred and nine, entitled "An act relating to membership corporations, constituting chapter thirty-five of the con-

solidated laws," as added by chapter six hundred and fifty-five of the laws of nineteen hundred and eighteen, are hereby amended to read, respectively, as follows:

§ 204. **Admission of members; forfeiture of membership.** Any such association may admit as members, under terms and conditions prescribed in its by-laws, persons engaged in agriculture, dairying or horticulture. Any person shall forfeit his membership upon proof being made to the association that he has ceased to be engaged in agriculture, dairying or horticulture. For the purposes of this article a member, other than an individual, shall be represented by an individual associate, officer or partner thereof, duly authorized. Such association may become a member of any other association formed under this article with such rights, powers and representation as may be prescribed in the by-laws of the association of which it becomes a member.¹

§ 206. **Voting by members.** Except as provided in section two hundred and four,² each member shall be entitled to one vote only, and no vote by proxy shall be permitted. Except in case of the removal of a director or officer, as provided in section two hundred and nine-b of this article, absent members may, under rules prescribed in the by-laws, be permitted to vote on specific questions by ballots transmitted to the secretary, or other proper officer of the association, by registered mail, and such ballots to be counted only in the meeting at the time at which such vote is taken.

§ 209. **Contracts and agreements.** Any such association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements, and make all necessary and proper stipulations, agreements, contracts and arrangements with any other co-operative corporation, association or associations³ for the co-operative and more economical carrying on of its business or any part or parts thereof; or any two or more co-operative associations⁴ may upon resolutions adopted by their respective boards of directors for the purpose of more economically carrying on their respective businesses, by agreement between them unite in employing and using, or several such associations may separately employ and use, the same methods, means and agencies, which agencies may be another co-operative⁵ association or associations, for carrying on and conducting their respective businesses. ⁶Copies of such contracts between associations as authorized by this section shall be filed with the department of farms and markets within ten days after the execution thereof.

§ 2. This act shall take effect immediately.

¹ Words "of the association of which it becomes a member," new.

² Words "Except as provided in section two hundred and four," new.

³ Words "formed under the provisions of this article," omitted.

⁴ Word "co-operative" substituted for word "such."

⁵ Following sentence substituted for sentence which read: "No contract or agreement authorized by this section shall be binding or effective until a copy thereof is filed with the department of farms and markets and, if the same relates to co-operative marketing, shall be sanctioned by such department."

CHAPTER 449

AN ACT to incorporate the Most Holy Redeemer Cemetery.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corporators.

Section 1. Right Reverend Edmund F. Gibbons, bishop of the Roman Catholic diocese of Albany, Right Reverend Monsignor Joseph A. Delaney, vicar-general of the Roman Catholic diocese of Albany, Reverend Bernard I. Gillon, chancellor of the Roman Catholic diocese of Albany, all of Albany, New York; Right Reverend Monsignor John L. Reilly, Reverend James B. Hayden, Reverend John J. Lynch, Reverend Martin J. McMahon, Reverend Vincent G. O'Brien, Reverend C. Ernest Perrin, and Reverend Nicholas Schmitz, all of Schenectady, New York, and Reverend Edwin Wattson of Scotia, New York, and such other persons as herein provided shall constitute the "Most Holy Redeemer Cemetery" which shall be and is hereby created a corporation, with perpetual succession by the name of "Most Holy Redeemer Cemetery;" and the said Right Reverend Edmund F. Gibbons, bishop of the Roman Catholic diocese of Albany, Right Reverend Monsignor Joseph A. Delaney, vicar-general of the Roman Catholic diocese of Albany, Reverend Bernard I. Gillon, chancellor of the Roman Catholic diocese of Albany, all of Albany, New York; and Right Reverend Monsignor John L. Reilly, Reverend James B. Hayden, Reverend John J. Lynch, Reverend Martin J. McMahon, Reverend Vincent G. O'Brien, Reverend C. Ernest Perrin, and Reverend Nicholas Schmitz, all of Schenectady, New York, and Reverend Edwin Wattson of Scotia, New York, and such additional persons so as to make the board of trustees number fifteen and selected as hereinafter provided, are hereby constituted the board of trustees thereof.

Corporate
name.
Trustees.

The bishop, the vicar-general and the chancellor of the Roman Catholic diocese of Albany and their successors in office shall by virtue of their offices always be trustees and members of the said corporation; and the pastors of the respective Roman Catholic churches in the county of Schenectady are hereby made eligible as members and trustees of the corporation. The additional trustees, so as to make the board number fifteen, shall be selected and any vacancy in the said board by death, resignation or otherwise, shall be filled by the then trustees, subject to the approval of the bishop of the Roman Catholic diocese of Albany, and his successors in office.

Officers.

§ 2. The bishop or administrator of the Roman Catholic diocese of Albany shall by virtue of his office be the president of said corporation, and said board of trustees shall select from their number a vice-president, secretary and treasurer, and a majority of said trustees shall constitute a quorum for the transaction of

business. No act or proceedings of the trustees of the said corporation shall be valid without the sanction of the bishop of the Roman Catholic diocese of Albany in writing, or in case of his absence or inability to act, without the sanction in writing of the vicar-general or an administrator of the Roman Catholic diocese of Albany.

Proceedings
to be sanc-
tioned.

§ 3. The said corporation may acquire and hold land within the county of Schenectady outside of the present territorial limits of the city of Schenectady not exceeding three hundred acres, for the exclusive use of a cemetery, or a place for the burial of the dead, and for this purpose such parts of the said lands as may from time to time be required for that purpose shall be surveyed and subdivided in lots and plots of cemetery size, with such walks, paths and avenues as the said trustees shall direct and a map of the said survey and surveys shall be filed in the office of the clerk of the county of Schenectady. When the said map or/and maps shall be filed, the said trustees may sell and convey such lots and plots on such terms and at such prices as they shall agree, which conveyance shall be made under the seal of the corporation and signed by the president or vice-president and secretary thereof, but all moneys obtained from such sales shall be applied by the said trustees to the payment of the purchase money of the land acquired by the said corporation, and to improving and embellishing the same as a cemetery, and the excess, if any, to such charitable or religious purposes as the trustees may designate or direct.

Acquisition
of land;
maps.

Sale of
plots.

Applica-
tion of pro-
ceeds.

§ 4. Said corporation shall have all the powers and authority conferred on cemetery corporations incorporated under the religious corporation law of the state of New York, and shall have all the powers incident and necessary to carry out and perform the foregoing objects of the corporation, and may take, acquire and hold real property in the county of Schenectady, outside the present territorial limits of the city of Schenectady or/and personal property or/and both by purchase, gift, grant, bequest or devise, or otherwise.

General
powers.

§ 5. The said corporation shall have power to make, amend and repeal by-laws for the management of its affairs provided same shall not be inconsistent with the canons or other regulations of the Roman Catholic Church, or with the constitution and laws of this state. The principal office of the corporation shall be in the city of Schenectady, New York.

By-laws.

Principal
office.

§ 6. The said corporation shall possess and be entitled to all such powers, benefits, exemptions from taxation and other privileges or advantages as now are, or hereafter shall be, conferred by law upon charitable or any cemetery corporations.

Taxation
benefits.

§ 7. This act shall take effect immediately.

CHAPTER 450

AN ACT to amend the charter of the city of Oneonta, generally.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1903, ch.
454, § 10
amended.

Section 1. Section ten of chapter four hundred and fifty-four of the laws of nineteen hundred and eight, entitled "An act to incorporate the city of Oneonta," is hereby amended to read as follows:

§ 10. **City officers.** The officers of the city shall be a mayor, a city judge, a chamberlain, two assessors, two constables, a commissioner of charities, a clerk, and attorney, four commissioners of public works, a superintendent of public works, an engineer, four park commissioners, a superintendent of parks,¹ four fire commissioners, four police commissioners, one captain of police, a sergeant and such number of patrolmen as the common council may determine upon, six members of the board of education, a superintendent of schools, six members of the board of health, and five members of the library board. There shall also be one alderman for each ward of said city; one supervisor for the first and second wards, one for the third and fourth wards and one for the fifth and sixth wards.

§ 13, subd.
1, as
amended by
L. 1914,
ch. 340,
amended.

Appointive
officers.

§ 2. Subdivision one of section thirteen of such chapter, as amended by chapter three hundred and forty of the laws of nineteen hundred and fourteen, is amended to read as follows:

1. The appointive officers of the city shall be a city clerk, a city attorney, a commissioner of charities, six members of the board of health, four fire commissioners, four police commissioners, four commissioners of public works, four park commissioners, each of which officers shall be appointed by the mayor, subject to the confirmation of the common council; and the appointees upon any of the said boards or commissions shall be such that a majority of the members thereof shall not belong to one political party; six members of the board of education to be appointed by the mayor, subject to the confirmation of the common council; one captain of police, one sergeant and such number of patrolmen as the common council may determine, to be appointed by the board of police commissioners; a city engineer and a superintendent of public works, each of whom shall be appointed by the board of public works; a superintendent of schools who shall be appointed by the board of education; and such other appointive officers as may be authorized and required by general laws, each of whom shall be appointed by the mayor subject to the confirmation of the common council, unless otherwise pro-

¹ Words "four park commissioners, a superintendent of parks," new.

vided by such general laws. ³ The mayor, subject to the confirmation of the common council, may appoint a parole officer for the city of Oneonta for a term of not to exceed one year. The duties and compensation of such officer shall be determined and fixed by the common council. Such parole officer is hereby declared to be a peace officer within the provisions of section one hundred and fifty-four of the code of criminal procedure.

§ 3. Section fourteen of such chapter, as amended by chapter one hundred and ninety-six of the laws of nineteen hundred and twenty,⁴ is hereby amended to read as follows:

§ 14. **Compensation of city officers.** The aldermen, fire, park and police commissioners, members of the city board of health, board of education, trustees of the public library and board of public works shall receive no compensation for their services. The annual salary of the mayor shall be six hundred dollars. The annual salary of the city judge shall be twelve hundred dollars.⁵ The common council shall have the power to fix and change the annual salaries of the city chamberlain, of the city clerk, of the commissioner of charities, of the city assessors, the corporation counsel and all other salaried officers of the city, except such as are otherwise provided by law or this act, but every such salary, except those fixed within three months from the time this act takes effect, shall be fixed by resolution at least six months before beginning of the term of office to which it belongs and shall not be increased or diminished during the continuance of such term of office. Every resolution fixing or changing a salary, except those passed within said three months, shall be published, after its introduction, after any change therein and before being finally acted upon, in the official newspapers of the city once a week for four successive weeks. The city engineer and the superintendent of public works shall receive such compensation as shall be determined by the board of public works. The captain of police, the sergeant, patrolmen, and special policemen shall receive a salary to be fixed by the board of police commissioners subject to the approval of the common council; the supervisors and constables, respectively, shall, except as modified by this act, be entitled to the same compensation for their services as the corresponding officers in towns are entitled to receive for like service; the inspectors of election and such other officers as are authorized to be appointed shall receive the compensation fixed by the general law.

§ 14, as amended by L. 1920, ch. 196, amended.

§ 4. Subdivision eight of section seventy-eight of such chapter, as amended by chapter four hundred and fifty-four of the laws of nineteen hundred and seventeen,⁶ is hereby amended to read as follows:

§ 78, subd. 8, as amended by L. 1917, ch. 454, amended.

8. **Payment of assessments.** Such local assessments shall become due and payable in five ⁶ equal annual payments, as follows:

¹ Remainder of subd. 1 new.

² Previously amended by L. 1909, ch. 114; L. 1914, ch. 240.

⁴ Formerly "one thousand dollars."

⁵ Previously amended by L. 1910, ch. 248.

⁶ Formerly "ten."

One-fifth⁷ part thereof, with one year's interest at six per centum per annum upon the whole amount unpaid of said local assessments, annually for each year thereafter until paid, and which local assessments with interest thereon as above provided shall be by the common council of said city added annually to the next city assessments upon said property so assessed respectively and levied and collected in the ordinary way of levying and collecting taxes in said city, with the same liability thereon by said owners respectively, for interest and penalties thereon if not paid at maturity, as is provided by the charter of said city with respect to its other taxes, tax liens and assessments, and including all the rights, remedies and practice provided by title eleven of this act, which is hereby made applicable thereto. Such assessment may be paid at any time prior to maturity. Any street railway corporation liable for the payment of any such assessment may elect to make payment for its assessment in ten annual installments in the same manner and under the same conditions as provided herein for payment by other persons liable to such assessments, on serving written notice upon the mayor or city clerk, personally, within thirty days after such assessment shall become due and payable. The whole of the unpaid part of such assessment against such railway corporation and all interest thereon shall become due and payable, at the option of the common council of the city, after default of sixty days in the payment of any installment or of any interest when due. The provision for the election of any street railway corporation to pay its assessment by installments as herein set forth shall not be construed to modify or abridge the lien of the city upon all the property and franchises of such corporation for the payment of such assessment or for any unpaid part thereof. And upon default of any payment of such assessments or interest all the franchises and property of such railway corporation may be sold to collect such assessment or assessments in the manner provided in subdivision six of this article.

§ 187
amended.

§ 5. Section one hundred and eighty-seven⁸ of such chapter is hereby amended to read as follows:

§ 187. **Notice of receiving taxes.** Immediately upon the delivery of a city roll and warrant to the chamberlain he shall publish a notice in the official newspapers of the city, that he will attend at his office with said roll and warrant for thirty days next after the first publication of said notice, during the hours named in section thirty-seven of this act, to receive taxes, and it shall be his duty to attend accordingly. On all taxes or assessments paid within thirty days after the first publication of the notice the chamberlain shall collect⁹ no fee or additional per centum. On all taxes or assessments remaining unpaid after the expiration of such thirty days the chamberlain shall collect five per centum additional, and all remaining unpaid after the expiration of

⁷ Formerly "One-tenth."

⁸ As amended by L. 1909, ch. 114.

⁹ Remainder of sentence formerly read: "one per centum additional."

sixty days from such first publication shall bear, and there shall be collected thereon, in addition to said five per centum, interest at the rate of one per centum per month from the expiration of said sixty days, which percentage and interest shall belong to the city.

§ 6. Title fifteen of such chapter is hereby amended by inserting therein a new section, to follow section two hundred and forty-three, to be section two hundred and forty-three-a, to read as follows: ^{§ 243a added.}

§ 243-a. **Change of name.** The name of the "Oneonta Public Library," a corporation created by the regents of the state of New York in eighteen hundred and ninety-three, is hereby changed to "The Huntington Memorial Library" pursuant to the request of Mr. Henry E. Huntington who has already made valuable gifts to the city of Oneonta for library and park purposes and who proposes to endow the same in memory of his parents.

§ 7. Sections two hundred and forty-four, two hundred and forty-five and two hundred and forty-six of such chapter are hereby amended to read as follows: ^{§§ 244-246 amended.}

§ 244. **Board of library trustees.** The affairs of the Huntington Memorial¹⁰ library shall continue to be managed by a board of five members to be appointed in the manner provided in this act, which board shall be known and designated as the "board of trustees of Huntington Memorial¹⁰ library." Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed, by this act or by any general law of this state relating to public libraries and not inconsistent with the provisions of this act.

§ 245. **General powers of library trustees.** The present members of the board of trustees of Huntington Memorial¹⁰ library shall continue to constitute the board of trustees of the Huntington Memorial¹⁰ library until their successors are appointed and qualified, as provided by this act. The title to all real and personal property now belonging to said¹¹ library shall remain vested in said board of library trustees, but all moneys and funds belonging to said¹¹ library shall be paid over and delivered to the chamberlain of said city, and credited by him to the library fund of said city. All the rights, powers, privileges, obligations and liabilities of said Huntington Memorial¹⁰ library shall remain vested in and imposed upon said board of library trustees as hereby continued, and the rights and privileges of all persons that may have arisen or accrued prior to the passage of this act shall remain and be enforced by or against said board of library trustees, and its successors, in the same manner and with like effect as the same might have been enforced by or against the board of trustees of Oneonta public library if this act had not been passed; subject, however, to the provisions of this act.

¹⁰ Words "Huntington memorial" substituted for words "Oneonta public."

¹¹ Word "public" omitted.

§ 246. **Appointment of library trustees.** The mayor of the city of Oneonta, subject to the approval of the common council, shall annually in the month of January appoint a citizen of said city a member of the board of trustees of Huntington Memorial¹² library and shall also appoint a citizen of said city to fill any vacancy in the membership of said board caused by death, or otherwise, whenever such vacancy shall occur. Each person so appointed shall hold office for the term of five years, except when appointed to fill a vacancy, and in such case to fill the unexpired term caused by such vacancy.

§ 247, subd.
6 amended.

§ 8. Subdivision six of section two hundred and forty-seven of such chapter is hereby amended to read as follows:

Powers of
library
trustees.

6. To receive all property, real and personal, that may be given, bequeathed or devised to the Huntington Memorial¹² library and to have power to invest and reinvest and to care for, and control the same, but all moneys, income and funds received from such gifts, bequests or devises shall be paid to and disbursed by, the city chamberlain upon the order of said board of library trustees.

§ 249
amended.

§ 9. Section two hundred and forty-nine of such chapter is hereby amended to read as follows:

§ 249. **Powers of library trustees to raise moneys by taxes.** On or before the fifteenth day of July in each year, the said board of library trustees shall prepare a statement of such sums of money as it shall deem necessary during the next fiscal year which shall begin August first, annually. Before the meeting of the board at which said statement is prepared, the board shall give the mayor official notice thereof and the mayor shall attend said meeting, and be accorded the right of inquiry into all the items of said statement and all the privileges in said meeting of the members of said board, except the privilege of voting. Whenever the said board shall finally have determined on the statement of expenses for the ensuing year, it shall present the same to the mayor, or acting mayor of the city. If the mayor, or acting mayor, approves such statement he shall sign it and immediately file the same with the city clerk; if he does not approve any item therein he shall, within five days, return the statement with his objections endorsed thereon or annexed thereto, to the clerk of the said board of library trustees and said board shall then proceed to reconsider such statement, and if four-fifths of the members then in office agree to sustain the statement as made it shall stand as if it had been approved by the mayor and shall be immediately filed with the city clerk. If four-fifths of the members of said board do not agree to sustain the statement as made, it shall be modified so as to conform with the views expressed by the mayor in his objections and he shall then sign it and file it with the city clerk. But if he does not approve any item thereof, he shall, within twenty-four hours, return the same with his objections as before, and the board of library trustees shall continue to present state-

¹² Words "Huntington Memorial" substituted for words "Oneonta public."

ments as aforesaid until the mayor's approval be obtained or until four-fifths of the members of said board agree to pass the same over his objections, and said statement when thus approved shall be filed with the city clerk. If the mayor, or acting mayor, fails to sign a statement of moneys required as herein provided, or fails to return, within five days after its submission, said statement with his objections thereto to said board, said statement shall be filed with the city clerk in the same manner as if it had been approved. When such statement is filed with the city clerk the common council of said city shall then include the amount thereof in the annual levy for school taxes, and the same shall be collected by the city chamberlain under the same terms as other taxes, who shall credit the same when received to the library fund of the Huntington Memorial¹² library and who shall disburse the same upon orders of said board signed by the president and secretary thereof.

§ 10. This act shall take effect immediately.

CHAPTER 451

AN ACT authorizing the city of Oswego to issue certificates of indebtedness to provide moneys for the payment of certain city obligations, for the payment of which provision was not made in the appropriate city tax levies.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Oswego is hereby authorized to borrow on the faith and credit of the city, for the purposes mentioned in this act, a sum not exceeding eighty-three thousand five hundred and eighty-four dollars and ninety-eight cents, and to cause to be issued certificates of indebtedness of the city therefor, under the seal of the city and signed by the mayor and city clerk. Such certificates shall be issued in such denominations as may be fixed by the common council of such city and at a rate of interest to be fixed by such common council not exceeding six per centum per annum. The money so borrowed shall be used only to pay the liabilities of such city, heretofore accrued, or to accrue before August first, nineteen hundred and twenty-two, on city obligations, principal and interest, for the payment of which provision was not made in the appropriate city tax levies. None of such certificates shall be payable later than August first, nineteen hundred and twenty-five. The common council shall levy and raise by taxation, within the city, from

¹² Words "Huntington Memorial" substituted for words "Oneonta public."

time to time, such sums as may be necessary to pay the principal and interest of such certificates as they fall due.

§ 2. This act shall take effect immediately.

CHAPTER 452

AN ACT to amend the personal property law, in relation to stock dividends.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
45, § 10
amended.

Section 1. Section ten of chapter forty-five of the laws of nineteen hundred and nine, entitled "An act relating to personal property, constituting chapter forty-one of the consolidated laws," is hereby amended to read as follows:

§ 10. **Definitions.** The term "income of personal property," as used in this article, means the income or profits arising from personal property, and includes the interest of money and the produce of stock,¹ but excludes the stock dividends described as principal in section seventeen-a.

§ 17a
added.

§ 2. Such chapter is hereby amended by inserting therein a new section, to follow section seventeen, to be section seventeen-a to read as follows:

§ 17-a. **Stock dividends.** A will, deed or other instrument, which shall hereafter be executed and create or declare a trust, may declare any dividend payable in the stock of the corporation or association declaring or authorizing the same, and declared or authorized hereafter in respect of any stock composing, in whole or in part, the principal of such trust, to be in whole or in part principal and not income of such trust. The addition of any such stock dividend to the principal of such trust shall not be an accumulation of income within the meaning of this article.

§ 3. This act shall take effect immediately.

CHAPTER 453

AN ACT to change the name of Rochester Baptist City Mission Society to Baptist Union of Rochester and Monroe County, Incorporated.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The name of Rochester Baptist City Mission Society, a corporation incorporated under chapter three hundred and

¹ Remainder of section new.

nineteen of the laws of eighteen hundred and forty-eight as Rochester Baptist Missionary Union, the name of which was changed to Rochester Baptist City Mission Society by order of the supreme court of the state of New York dated June twelfth, nineteen hundred and eleven, is hereby changed to Baptist Union of Rochester and Monroe County, Incorporated; but such change of name shall not affect the title to any property owned or possessed by such corporation or any action or proceeding now pending by or against such corporation, or any obligation incurred by such corporation; and any gift or bequest heretofore or hereafter made or given in any will, devise or other grant to or in the name of Rochester Baptist Missionary Union or Rochester Baptist City Mission Society shall inure to the benefit of and belong to Baptist Union of Rochester and Monroe County, Incorporated, the same as though such name had not been changed.

§ 2. This act shall take effect immediately.

CHAPTER 454

AN ACT to amend chapter two hundred and eighty-eight of the laws of eighteen hundred and sixty-nine, entitled "An act to authorize the establishment of a law department in Saint Lawrence University," in relation to providing for a separate board of trustees for such law department, and defining its powers and duties.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter two hundred and eighty-eight of the laws of eighteen hundred and sixty-nine, entitled "An act to authorize the establishment of a law department in St. Lawrence University," is hereby amended by adding thereto a new section, to be section two, to read as follows:

§ 2. The property, affairs and management of the law department of Saint Lawrence University shall be under the direction of a board of nine trustees who with their successors shall be elected by the trustees of Saint Lawrence University, and said board shall administer said law department for the purpose of legal education pursuant to by-laws adopted by the trustees of Saint Lawrence University.

§ 2. This act shall take effect immediately.

§ 2
added to
L. 1869,
ch. 288.

Trustees.

CHAPTER 455

AN ACT to enable the city of Schenectady to improve Erie boulevard from the General Electric Company's lands to the American Locomotive Company's lands, or an appropriate point near either of them, Washington avenue from State street to said Erie boulevard, and to lay out and build a dyke upon lands between Washington avenue and the Mohawk river from State street adjacent to the Great Western Gateway bridge to said Erie boulevard, and acquire the necessary lands therefor, as one entire improvement at the expense of the city at large or in part at the expense of the city at large and the balance by local assessment, the proportions and district of assessment to be determined by said city.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Improve-
ment au-
thorized.

Section 1. The common council of the city of Schenectady shall have power, by ordinance, to provide for the improvement of Erie boulevard from a point at or near the lands of the General Electric Company to a point at or near the lands of the American Locomotive Company, the improvement of Washington avenue from State street to said Erie boulevard, the laying out, construction and improvement of a dyke as a public way between Washington avenue and the Mohawk river from State street and Washington avenue at or near or alongside the Great Western Gateway bridge approach to said Erie boulevard as terminal points and to lay out, alter, widen, narrow, straighten, grade, regrade, pave, or repave, said boulevard and avenue and dyke, make sidewalks, parking places, park effects and acquire the necessary lands therefor in the construction and improvement of said boulevard, avenue and dyke, as one entire improvement at the expense of the city at large or in part at the expense of the city at large and in part at the expense of a local assessment district or districts under the restrictions and limitations hereinafter prescribed.

Apportion-
ment of
expense.

Petition to
common
council;
proceedings
thereupon.

§ 2. Whenever a petition for said improvement signed by twenty-five or more tax payers of said city shall be presented to the common council, the said common council, if it shall deem the same worthy of consideration, shall proceed as follows: Such petition shall be entered at length in the minutes of the common council and be referred to a proper committee. The committee shall examine the subject and hold a public hearing thereon of which it shall give public notice by printing in two daily newspapers of said city a statement of the time and place of such hearing in the city of Schenectady on five days, the first of which shall be not more than ten days nor less than five days before such hearing, at which hearing or an adjourned day thereof all persons interested may be heard. If the proposed improvement is deemed proper and expedient by said committee, the committee

shall cause the city engineer to make a map and survey, showing the location of such proposed improvement, and the particular lots or parcels of lands, if any, required therefor, and the names of the owners or occupants thereof, so far as the same can be ascertained. Such committee shall report in writing to the common council, stating its opinion as to the propriety of the proposed improvement, with an estimate, in items, of the probable cost and expense thereof, including the amount of damages which in its judgment will be sustained in consequence thereof, by the owners and occupants of lands and buildings, if any, required to be taken for such improvements and including the amount of damages which in its judgment will be sustained by the owners and occupants of any abutting lands by reason of any change of established grades.

Report of
committee
of common
council.

Such report shall also either recommend that the whole expense be borne by the city at large or recommend that a proportion only of the expense be borne by the city at large, designating the proportion it deems proper; and shall recommend as to the remainder of the expense that the same be borne by the owners and occupants of the lots or parcels of land benefited thereby and in such case, shall designate such district or districts of assessment including that portion of the city which, in its judgment will be benefited by said improvement and should be assessed for said remainder of said expense and if more than one district is designated the proportion of said remainder that should be assigned to and assessed upon each such district. Such survey and map shall be presented with such report.

§ 3. The common council, upon the presentation of such report, unless it shall determine to deny the petition for such improvement, shall direct the city clerk to give notice by publication thereof, for at least two successive days, in the official newspaper, of the time and place at which the common council will consider the matter of such proposed improvement, which time shall be not less than six days from the first publication of such notice. At the time and place mentioned in such notice, the common council shall meet, and then or at such other time as a majority of its members then present may appoint, shall hear all persons desiring to be heard upon the matter of said proposed improvement or with reference to making the expense of the improvement in whole or in part a charge upon the city at large, or a proportion upon a district, or districts, of assessment and the extent of such district, or districts, and after hearing all persons who desire to be heard shall take such action thereon as it may deem proper, with power to modify any of the provisions or recommendations of said report and make new provisions in lieu thereof, or in addition thereto, and thereupon or at an adjourned meeting by ordinance order the improvement. No such improvement shall be ordered except by an ordinance adopted by an affirmative vote of two-thirds of all the members of the common council. The ordinance directing such improvement shall require and direct that the cost and expense thereof be defrayed by the city at large if

Hearing be-
fore com-
mon coun-
cil.

Action by
common
council.

Ordinance.

deemed proper or instead thereof shall specify the proportion thereof to be defrayed by the city at large and the proportion to be defrayed by local assessment and shall designate that portion or portions of the city which shall be assessed therefor and the proportions to be assessed upon each district of assessment if more than one district is designated; such ordinance shall also contain a description of the lots or parcels of land required for such improvement.

Assessment of lands benefited.

§ 4. If such ordinance directs any portion of the expense of said improvement to be defrayed by a district or by districts of assessment the respective portion or portions thereof shall be borne by the owners or occupants of the lots or parcels of land in said respective districts according to the benefit to said lots or parcels of land, not including an abutting or intersecting street as a lot; and shall be apportioned and assessed thereon in the same manner and by the same proceedings as the expense of paving streets, payable by local assessment in five annual installments, is assessed under the charter of the city of Schenectady.

Acquisition of lands.

§ 5. Lands required for said improvement, other than state lands, shall, upon the adoption of such improvement ordinance, be acquired by the same proceedings provided by the said city charter for the acquisition of lands for street improvements, subsequent to the adoption of an ordinance ordering the street improvement, except as to the method of assessing, collecting and paying the compensation for such lands and the vesting in the city of the title to, and the right to possession of, such lands. The title to lands required for said improvement shall respectively vest in the city of Schenectady, and said city shall have the right to the possession thereof respectively, upon the confirmation of the report of the condemnation commissioners relating thereto or upon the confirmation of so much of said report as relates to any of the separate pieces or parcels of land referred to therein if said report shall embrace more than one parcel of land.

Interest at six per centum per annum from the time the right to possession vests in the city shall be payable with the compensation with the costs awarded in the proceeding.

Damages from change of grade.

§ 6. Damages done by the change of the grade, heretofore legally established, of any street, by said improvement and the compensation therefor shall be ascertained in and by the proceedings provided by the said city charter for the acquisition of lands for street improvements subsequent to the adoption of an ordinance ordering the street improvement, which proceedings are hereby modified to apply to the damages and compensation to be paid for damages by such change of grade instead of for property to be taken for such improvement, except that the method of assessing, collecting and paying the compensation for such damages therein shall not apply.

Construction on state lands.

§ 7. In the construction of the dyke herein provided for, no part of the expense of so much thereof, if any, as is upon state lands, shall be borne by the lot owners in any assessment district, or districts, but shall be a charge upon the city at large.

All state authorities having jurisdiction thereover may consent to the permanent occupation for the purpose of the improvement authorized by this act, of land of the state, if any, if such occupation will not, in their opinion, interfere with the public purpose for which such land was required, and until it shall again be required by the state for such public purposes.

Occupation
of state
lands.

§ 8. The cost of lands acquired for said improvement, the amount of damages for change of grade and the costs awarded shall form part of the expense of said improvement.

What in-
cluded in
cost.

§ 9. The work of said improvement shall be done under the supervision of the commissioner of public works, and contracts therefor shall be let by the board of contract and supply as provided in said city charter. The cost and expense of making lateral connections with the public sewer and water mains may be incurred and made a part of the assessment against the lot so connected as provided by the city charter for making and paying for such connections in the case of street paving.

Work, how
done.

Cost of
lateral con-
nections.

§ 10. The city of Schenectady is hereby authorized and directed to issue bonds in the manner provided by sections sixty and sixty-one of the second class cities law in such amount as may be required to defray its share of the cost of the improvement and the expenditures imposed upon it by this act, and pending the determination of the exact amount of the city's share, the city may borrow the money on notes and renew the same until the determination of the exact amount payable by the city when bonds shall be issued as above provided from the proceeds of the sale of which said notes and interest shall be paid.

Issue of
bonds and
notes au-
thorized.

The compensation for lands taken for this improvement shall be payable when the amount thereof is finally determined in respect to any piece of land taken. The compensation for damages by change of grade shall be payable when the amount thereof is finally determined. The city may raise the money to pay such land damages and grade damages on its note, or notes and renewals thereof pending the issue of bonds to defray the city's share thereof and the issue of improvement bonds or notes or certificates of indebtedness to defray the share thereof assessed upon lots and parcels of land in assessment district or districts, under sections one hundred and two and one hundred and three of the charter of said city.

Compensa-
tion for
lands
and for
damages.

§ 11. Appeals from a report of the compensation to be made for lands taken or of the damages done by change of grade and from the order confirming the same, or any part thereof, or from the ordinance of the common council confirming the report of the assessors may be taken in the mode and within the time provided in sections seventy-one to seventy-six, both inclusive, of said charter of the city of Schenectady.

Appeals
from
report of
such com-
pensation.

The notice to be given by the city treasurer requiring lot owners to pay the first installment of their assessments under section ninety-seven of said charter shall require such payment four weeks from the first publication thereof.

Notice to
pay first
installment
of assess-
ment.

Payment of
install-
ments.

§ 12. The resolution or ordinance confirming the report of the apportionment and assessment shall direct that the assessment may be payable in five equal annual installments, the first of such equal installments to be payable at the expiration of four weeks from the first publication of a notice by the city treasurer requiring such payment and one such installment shall be due and payable annually thereafter.

Said assessment, except the first installment, shall bear interest at the rate of six per centum per annum from the date the first installment becomes payable and shall be due and payable annually from said date. If any installment of said assessment or any interest shall be unpaid when due and payable, the rate of interest upon the whole unpaid principal of the assessment shall be increased to seven per centum per annum during the continuance of such default and except during a default, shall be six per centum. One or more installments of said assessment with interest, accrued in accordance with the above provisions on the entire unpaid installments, may be paid to the city treasurer at any time before proceedings to enforce the collection are taken and may then be paid with the expenses of such proceedings.

Lien and
collection
of install-
ments.

§ 13. All assessments with the interest as it shall accrue thereon as hereinabove provided, shall be a lien upon the lots or parcels of land upon which they are respectively laid from the time of the confirmation of the report of the assessment, for the whole amount unpaid thereon, until paid, which lien shall have priority over all other liens and incumbrances. The collection thereof when due, with interest as aforesaid, or of any arrearages of installments and interest, or of interest only, shall, when so directed by the common council, be enforced by a sale of the land assessed pursuant to section sixty-eight of the charter of the city of Schenectady, which section shall apply to such collection, except that the interest shall be as herein provided and that such sale shall be subject to the lien of all portions of such assessment which shall be subsequently payable and all other city assessments and taxes then a lien thereon.

Applica-
tion of
other laws.

§ 14. Section one hundred and twenty-four of the second class cities law shall not apply to this improvement. The provisions of this act shall prevail over all acts or parts of acts which are in conflict or inconsistent with this act. The provisions of the charter of the city of Schenectady, applicable to street improvement proceedings, shall, so far as applicable without impairing any of the provisions of this act, and modified to meet the requirements of this act, apply to and be in aid of effecting the purposes of this act.

§ 15. This act shall take effect immediately.

CHAPTER 456

AN ACT to amend the surrogate's court act, in relation to testamentary trustees.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and sixty-eight of the surrogate's court act is hereby amended to read as follows: § 168
amended.

§ 168. **Appointment of successor.** When all the persons named in a will as testamentary trustees die prior to the probate of the will, or by an instrument in writing renounce the appointment, or when no testamentary trustee is named in a will to execute a trust created therein, or when all the testamentary trustees die or become incompetent, or are by a decree of the surrogate's court removed or allowed to resign, or where one of two or more persons named in a will as testamentary trustees dies prior to the probate of the will, or by an instrument in writing, renounces his or their appointment, or where one of two or more testamentary trustees dies or becomes a lunatic, or is by decree of the surrogate's court removed or allowed to resign, and the trust has not been fully executed, the surrogate's court may appoint a trustee or successor or successors, unless such appointment would contravene the express terms of the will, or¹ there is a trustee in office, unless all the beneficiaries waive such appointment in writing, ² or where a testamentary trustee has been named in such will to succeed such testamentary trustee and is not incapacitated or otherwise disqualified from acting as such testamentary trustee. Until a successor is appointed the remaining trustee or trustees may proceed and execute the trust. The trustee or successor may be appointed upon the application of any person interested and upon notice to such persons as the surrogate may designate.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two. In effect
Sept. 1,
1922.

¹ Words "in a case where" omitted.

² Remainder of sentence new.

CHAPTER 457

AN ACT to repeal chapter three hundred and fifteen of the laws of nineteen hundred and two, entitled "An act to lay out, establish and regulate a public driveway in the city of Troy."

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1902,
ch. 315
repealed.

Section 1. Chapter three hundred and fifteen of the laws of nineteen hundred and two, entitled "An act to lay out, establish and regulate a public driveway in the city of Troy," is hereby repealed.

§ 2. This act shall take effect immediately.

CHAPTER 458

AN ACT to amend chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled "An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled 'An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy,' and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and other acts relating to the city of Troy and its departments, and to the inferior local courts therein," in relation to the payment of assessments for public and local improvements in the city of Troy.

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1892,
ch. 670, tit.
4, § 3
amended.

Section 1. Section three of title four of chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled "An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled 'An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory thereof, and also to amend other acts relating to the city of Troy,' and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and other acts relating to the city of Troy and its departments, and to the inferior local courts therein," is hereby amended to read as follows:

Final report with proof of service of notice to be filed.

§ 3. It shall be the duty of said assessors, in making up such final report, to annex to the same proof of the service of the notice on the persons named in the list as above provided to be

served; which final report, accompanied by such proof, shall be filed in the office of the comptroller, and thereupon the persons, corporations and property charged with the expense of said improvement shall be subject to the payment of the respective amounts named in said final report, and the said assessment shall be a lien upon the property and real estate named and described in said report, when completed in sections, or as a whole, and so certified to the comptroller by the ¹ assessors, and shall remain a lien until paid. Any person or corporation assessed, as aforesaid, by paying the amount so assessed upon his or its property to the city treasurer ² within thirty days after ³ the confirmation of any such assessment, shall be discharged from such assessment; and thereafter any such person or corporation may, by paying the said assessment, with an addition of one per centum for each and every month that the same has remained unpaid after the confirmation thereof, be discharged from such assessment. But when any assessment hereafter made for a public or local improvement ⁴ shall exceed the sum of thirty dollars, the person or corporation against whose property such assessment is made, shall have the option of paying such assessment in five ⁵ instalments, each of one-fifth ⁶ the amount of such assessment; the first of which instalments shall be due and collectible upon the confirmation of any such assessment, and one of such instalments shall be due and collectible at the expiration of each year thereafter for four ⁷ years. The whole of said assessment remaining unpaid shall bear interest at the rate of six per centum per annum from and after the time of the confirmation of any such assessment. Such person or corporation shall be deemed to have availed himself or itself of said option by failure to pay the whole of any such assessment within thirty days after the confirmation of any such assessment. Any such person or corporation by paying within thirty days after the same shall be due and collectible, any instalment of the assessment imposed upon his or its property, with interest at the rate of six per centum per annum upon the whole amount of assessment remaining unpaid from the time of the confirmation thereof, shall be discharged from said instalment and interest thereon; and such person or corporation, not being in default for the non-payment of any instalment of said assessment or interest, may be relieved and discharged from the whole of said assessment at any time by paying to the city treasurer, ² the amount thereof remaining unpaid, with interest as aforesaid; and any such person or corporation being in default for the non-payment of any instalment of assessment upon his or its property, or interest upon

Lien of
assess-
ment.

Discharge
from as-
sessment,
upon pay-
ment.

Payment in
instal-
ments.

¹ Word "local" omitted.

² Words "city treasurer" substituted for word "chamberlain."

³ Word "after" new.

⁴ Words "hereafter made for a public or local improvement," substituted for words "made under the provisions of this title."

⁵ Formerly "three."

⁶ Formerly "one-third."

⁷ Formerly "two."

any such assessment may be relieved and discharged from such instalment and interest by paying the amount thereof to said city treasurer,⁸ with an addition of one per centum for each and every month after the same became due and payable up to the time of payment.

§ 2. This act shall take effect immediately.

CHAPTER 459

AN ACT to amend the tax law, in relation to reports made to the tax commission by the secretary of state.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 62, § 204, as amended by L. 1915, ch. 317, amended.

Section 1. Section two hundred and four of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as amended by chapter three hundred and seventeen of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

§ 204. **Reports to be made by the secretary of state.** The secretary of state shall transmit¹ to the tax commission a report of the stock corporations whose certificates of incorporation are filed, or of the foreign stock corporations to whom a certificate of authority has been issued to do business in this state.² Such report shall state the name of the corporation, its place of business, the amount of its capital stock, its purposes or objects, its duration,³ the names and place of residence of its directors, and, if a foreign corporation, its place of business within the state⁴ and the name and address of its designee. ⁵ The secretary of state shall also cause to be transmitted to the tax commission notice of all dissolutions, mergers, consolidations, take-overs, increases and decreases of capital stock, changes of names and re-organization of domestic stock corporations, and dissolutions, withdrawals and revocations of and changes of designees of foreign corporations, filed or recorded in his office. The commission may prescribe the forms and furnish the blanks for such reports. The secretary of state shall make like reports to the commission whenever required by it relating to any such corporations whose certificates have been filed or to whom certificate of authority has been issued prior to the time this article takes effect, and during any period of time specified by the commission in its request for such report.

§ 2. This act shall take effect immediately.

⁸ Words "city treasurer" substituted for word "chamberlain."

¹ Words "on the first day of each month" omitted.

² Words "during the preceding month" omitted.

³ Words "its duration" new.

⁴ Remainder of sentence new.

⁵ Following sentence new.

CHAPTER 460

AN ACT to amend chapter two hundred and seventy-six of the laws of nineteen hundred and twenty, entitled "An act to provide for nonpartisan primaries and elections in the city of Watertown," generally.¹

Accepted by the City.

Became a law April 3, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections seven, nine, ten and eleven of chapter two hundred and seventy-six of the laws of nineteen hundred and twenty, entitled "An act to provide for nonpartisan primaries and elections in the city of Watertown," are hereby amended to read as follows: L. 1920, ch. 276, §§ 7, 9-11 amended.

§ 7. **Publication of candidates' names.** Within ten days after the expiration of the time for the filing of such petitions the board of elections shall publish in two newspapers of the city for three successive days the names of all the persons designated as candidates for nomination in petitions which are in proper form and have the requisite number of qualified signers, specifying which of said persons have been designated as candidates for the nomination for mayor, and which for the nomination for councilmen. There shall be prefixed to the list of names a statement of the day upon which the primary election will be held, and a further statement that petitions have been filed with the board of elections designating such persons as candidates for nomination for the respective offices, above specified, naming them.

§ 9. **Declination of designation; new designations.** If a person, who has been duly designated as a candidate, declines such designation, in a writing signed by him and duly acknowledged and filed with the board of elections within three days after the third Tuesday preceding the ensuing primary, or if a person regularly designated as a candidate dies before the primary election, the committee appointed on the face of the petition for the designation of such person may make a new designation by making and filing with the board of elections a certificate setting forth the cause of the vacancy, name of the person designated by the committee and the name of the person originally designated; such certificate shall be subscribed and acknowledged by a majority of the members of the committee and the members of the committee subscribing to the same shall make oath, before the officer or officers before whom they severally acknowledged the execution of such certificate, that the matters therein stated are true to the best of their information or belief. Such certificate must be

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

filed with the board of elections not later than the second Tuesday preceding the primary election, in case the designation made by petition has been declined. If the person originally designated has died after the ballots have been printed, pasters must be prepared and furnished as provided in the election law. If a candidate designated for nomination does not decline the designation within the time hereinbefore mentioned and he is thereafter nominated at the primary election, his name shall be printed on the official ballot and he shall not be permitted to decline such nomination.

§ 10. **Nonpartisan primary election.** At the time of the fall primary, as defined by the election law, in any year when officers of the city are to be elected, there shall be held a nonpartisan primary election for the purpose of nominating the candidates for mayor or councilmen, or both, for a term of office commencing on the first day of the second calendar month next succeeding their election. Such primary election shall be held at the same places as such fall primary and conducted by the same officers. Every qualified voter shall be entitled to vote at such non-partisan primary election at the polling place in the election district in which he is a resident.

§ 11. **Revision and correction of registers of voters; delivery to inspectors.** On or before the third Monday preceding the fall primary, the board of elections shall deliver to the city clerk the two copies of the register for each election district to be used at such primary, and such clerk, beginning on such Monday and continuing during office hours to and including the ensuing Saturday, shall make necessary changes in such registers for the purpose only of such primary. He shall retain upon the registers of the respective districts the names of all persons who may be qualified to vote at such city election in such district which appear upon the register of voters for the last preceding general election in such election district, except the names of such voters as are proven to his satisfaction to have ceased to be voters of the district since their names were placed upon such register, and shall, at such meetings, add only to such register the names of the persons so qualified who shall personally appear before him. In the remarks column, opposite an added name, he shall write his initials, and in the case of a person whose name is added upon his removal from another election district in the city, he shall also specify the district from which he removed. He shall not strike a name from the register, but, in lieu thereof, in the case of a person proven to his satisfaction to have ceased to be a voter of the election district, he shall enter in the remarks column, opposite the name of such voter, the word "moved" or "died," as the case may be, together with his initials; and for the purpose only of the fall primary, the name of such person shall be deemed stricken from the register. In the case of a removal to another election district in the city, he shall also specify the district to which the voter has moved. Nothing herein contained shall impair the powers and duties, with respect to

such registers at a meeting thereafter and before the general election, of inspectors of election for the purpose of revising or correcting the register for a special election if any, nor dispense with the necessity of the personal appearance at such meeting of a qualified voter whose name was not on the register at the time of its delivery by the board of elections to the city clerk. Nor shall this section authorize the city clerk to enter on the registers the party enrollment of any person by transfer from one election district to another, or otherwise. At the expiration of the period above provided for making such changes in the register, the clerk shall return such registers to the board of elections, which shall retain them until they are delivered to the clerk, pursuant to the election law, for delivery to boards of inspectors at the fall primary.

§ 2. Section twelve of such chapter is hereby repealed.

§ 12
repealed.

§ 3. Sections thirteen, fourteen, fifteen, seventeen and eighteen of such chapter are hereby amended to read as follows:

§§ 13-15,
17, 18
amended.

§ 13. **Polling places; equipment.** The board of elections shall provide for each polling place sample ballots for the offices of mayor and councilmen and separate tally sheet and return blanks for recording and returning the vote on nominations for such offices. The expense thereof shall be a charge upon the city.

§ 14. **Expenses.** The additional expense of the fall primary occasioned by holding therewith the non-partisan primary provided for in this act shall be paid by the city and in the same manner as the expenses of general elections. If provisions shall not have been made for the payment of such expenses in any year, then the officers who are empowered by law to make such provision in the city are hereby authorized and directed to raise money, to such amount as may be necessary in any manner provided by law for meeting expenses in anticipation of the collection of taxes and resources and to pay such expenses therefrom. The amount so raised shall be included in the amount to be raised by tax in the ensuing year.

§ 15. **City primary ballots; ballot boxes, et cetera.** The board of elections shall cause to be prepared, printed and supplied for use at the primary election hereunder official city primary ballots in the form hereinafter provided and no other ballot shall be used at such election for the nomination of candidates for city offices. Such board shall furnish a separate ballot box in each election district in which such ballots shall be deposited. No names of candidates for nomination for the offices of mayor or councilmen shall be printed upon the official city primary ballot except after designation duly made by petition. No names, words, signs or matter whatsoever shall be printed, written, marked or in any manner placed upon such ballot, except as provided in this act.

§ 17. **Conduct of election and canvass of vote.** The provisions of the election law relating to the conduct of elections and the canvass of votes shall apply to a primary election held under this act, provided, however, that the boxes containing the party

ballots shall be first opened and the ballots therein shall be canvassed and such canvass completed and the ballots returned to such box before the opening of the box and the canvass of the votes for the nomination of city officers. The number on the party ballot, if any, delivered to a voter and number on such ballot voted shall be entered first in the proper columns of the poll-book sections of the register and such numbers for the city officers ballot shall be entered immediately below, in the same columns, opposite the name of the voter. If the voter does not receive or vote a party ballot, such numbers on the city officers ballot shall be entered alone, followed by the word "city" or abbreviation "cit."

§ 18. **Voting machines on primaries.** Nothing herein contained shall be construed to prevent the use of voting machines at the fall primary in taking the vote on nominations for city officers and in the event of their use the provisions of the election law relating to voting machines shall apply so far as the same may be applicable and not inconsistent with the provisions of this article; but a voter who is given a party ballot shall not be allowed to enter the voting machine curtain or inclosure until after his party ballot shall have been returned to the inspectors for deposit in the ballot box. Such voting machines, if equipped with single straight ticket devices for use at the general election, shall have such devices securely locked at the primary elections. The ballots prepared for use upon such machines at such primary elections shall, in addition to such instructions to voters as may be proper, contain only the names of the offices for which candidates are to be nominated, a direction stating the number to be voted for for each office, and the names of the candidates duly designated for nomination, with proper blank spaces for independent voting.

§ 4. The act shall take effect immediately.

CHAPTER 461

AN ACT to amend the general business law, in relation to registered architects.¹

Became a law April 4, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 26, art. 7a, as added by L. 1915, ch. 464, and amended by L. 1917, ch. 268 and L. 1918, ch. 77, amended.

Section 1. Article seven-a of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws," as added by chapter four hundred and fifty-four of the laws of nineteen hundred and fifteen, and as amended by chapter three

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

hundred and fifty-eight of the laws of nineteen hundred and seventeen and chapter seventy-seven of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

ARTICLE 7-A.

REGISTERED ARCHITECTS.

Section 77. Definitions.

- 77-a. Registered architects.
- 78. Board of examiners and registration.
- 79. Qualifications; examinations; fees.
- 79-a. Certificates.
- 79-b. Violation of article.
- 79-c. Certificate presumptive evidence.
- 79-d. Conviction and prosecution of offenders.
- 79-e. Fees, fines and penalties.

§ 77. Definitions. As used in this article:

1. "The education department" means the education department of the state of New York as provided for by the education law.

2. "University" means the University of the State of New York.

3. "Regents" means board of regents of the University of the State of New York.

4. "Board" means the state board of examiners and registration of architects of the state of New York.

5. "Architectural college or school" means any architectural school, college, technology institute or department of a university, registered or accredited by the regents as maintaining a proper architectural standing and as such legally incorporated.

6. "Architect" means one who designs plans for structures and superintends or supervises their construction.

§ 77-a. Registered architects. 1. Any person residing in or having a place of business in the state, who, before this article takes effect, shall not have been engaged in the practice of architecture in New York state, under the title architect, shall, before being styled or known as an architect, secure a certificate of his or her qualification to practice under the title architect, as provided by this article. Any person who shall have been engaged in the practice of architecture under the title architect, before this article takes effect, may secure such certificate, in the manner provided by this article. Any person having a certificate pursuant to this article may be styled or known as a registered architect. No other person shall assume such title or use the abbreviation R. A., or any other word or words, letters or figures to indicate that the person using the same is a registered architect, or architect; but this article shall not be construed to prevent persons other than architects from filing applications for building permits or obtaining such permits.

2. Any person claiming the right to practice as architect or

registered architect by reason of his or her having been in practice as such prior to the twenty-eighth day of April, nineteen hundred and fifteen, may be required by the board to file an affidavit setting forth the facts and to present such evidence as will satisfy the board that he or she was in bona fide practice previous to such day.

§ 78. **Board of examiners and registration.** There shall be a state board of examiners and registration of architects, who, and their successors, shall be appointed by and hold during the pleasure of the board of regents of the university of the state, and who, subject to the approval and to the rules of the regents, may make rules for the examination and registration of candidates for the certificates provided for by this article. Such board shall be composed of five architects, who have been in active practice in the state of New York for not less than ten years, previous to their appointment, selected by the regents. Such examiners shall be entitled to such compensation for their services under this article as the regents shall determine, not exceeding in the aggregate the amount of fees collected from applicants for certificates and renewal of registration.

§ 79. **Qualifications; examinations; fees.** Any citizen of the United States, or any person who has duly declared his or her intention of becoming such citizen, being at least twenty-one years of age and of good moral character, may apply for examination or certificate under this article, but before securing such certificate shall submit satisfactory evidence of having satisfactorily completed the course in a high school approved by the regents or the equivalent thereof and subsequent thereto of having satisfactorily completed such courses in mathematics, history and one modern language, as are included in the first two years in an institution, approved by the regents, conferring the degree of bachelor of arts or science. Such candidate shall in addition submit satisfactory evidence of at least five years' practical experience in the office or offices of a reputable architect or architects, commencing after the completion of the high school course. The board may accept satisfactory diplomas or certificates from approved institutions covering the course required for examination. Upon complying with the above requirements, the applicant shall satisfactorily pass an examination in such technical* and professional courses as are established by the board. The board in lieu of examinations may accept satisfactory evidence of any one of the qualifications set forth under either subdivisions one and two of this section.

1. A diploma of graduation or satisfactory certificate from an architectural college or school approved by the regents, together with at least three years' practical experience in the office or offices of a reputable architect or architects; but the three years' experience shall be counted only as beginning at the completion of the course leading to the diploma or certificate; the board

* So in original. [Word misspelled.]

may require applicants under this subdivision to furnish satisfactory evidence of knowledge of professional practice.

2. Registration or certification as an architect in another state or country, where the qualifications required for the same are equal to those required in this state.

3. The board in lieu of examinations shall accept satisfactory evidence as to the applicant's character, competency and qualifications, and that he or she has been continuously engaged in the practice of architecture for more than two years next prior to the twenty-eighth day of April, nineteen hundred and fifteen, or that he or she has been actually engaged in the practice of architecture on his or her own account or as a member of a reputable firm or association for more than one year prior to such day; providing the application for such certification shall be made on or before January first, nineteen hundred and twenty-three.

Any architect who has lawfully practiced architecture for a period of more than ten years without the state shall be required to take only a practical examination, which shall be of the nature to be determined by the board.

Every person applying for examination or certificate under this article shall pay a fee of twenty-five dollars to the regents.

§ 79-a. **Certificates.** 1. The result of every examination or other evidence of qualification, as provided by this article, shall be reported to the regents by the board, and a record of the same shall be kept by the regents, and the regents shall, unless deemed otherwise advisable, issue a certificate to every person certified by the board as having passed such examination or as being otherwise qualified to be entitled to receive the same.

2. Every person securing such certificate shall register in the office of the county clerk of the county in which he or she maintains his or her principal place of business, in a book kept by the clerk for such purpose, his or her name, residence, and post-office address, source, number and date of his or her certificate to practice architecture and the date of such registration, which registration he or she shall be entitled to make only upon showing to the county clerk his or her certificate and making an affidavit of the above facts, and that he or she is the identical person named in the certificate; that before receiving the same he or she complied with all of the preliminary requirements of this article and the rules of the regents and the board as to the terms and the amount of study and examination; that no money other than the fees prescribed by this article and such rules was paid directly or indirectly for such registration, and that no fraud, misrepresentation or mistake in material regard was employed or occurred in order that such certificate should be made, which affidavit shall be preserved in a bound volume by the county clerk. The county clerk shall issue a certificate giving the date and name of said registered architect preceded by the words "registered as authority to practice as a registered architect, in the clerk's office of county"; and shall issue to each per-

son duly registered and making such affidavit a certificate of registration in his or her county which shall include a transcript of the registration. Such transcript and the certificate of registration may be offered as presumptive evidence in all courts of the facts stated therein. The county clerk's fee for taking such registration and affidavit and issuing such certificate shall be one dollar. Any person who, having lawfully registered as aforesaid, shall thereafter change his or her name in any lawful manner, shall register the new name with a marginal note of the former name, and shall note upon the margin of the former registration the fact of such change and a cross reference to the new registration. A county clerk who knowingly shall make or suffer to be made upon the book of registry of architects kept in his office any other entry than is provided for in this article shall be guilty of a violation of this article, punishable as hereinafter provided.

3. An architect having duly registered to practice as a registered architect in one county and removing his practice or a part thereof to another county or regularly engaging in practice or opening an office in another county, shall show or send, by registered mail, to the clerk of such other county, his certificate of registration. If such certificate clearly shows that the original registration was duly issued under seal by the board of regents, the clerk shall thereupon register the applicant in the latter county on receipt of a fee of twenty-five cents and shall issue a certificate giving the date and name of said registered architect, preceded by the words "Registered also in county," and return the certificate to the applicant. A county clerk having properly issued a certificate of registration to an architect shall forward a duly attested copy of the same, and a copy of the affidavit and evidence upon which said certificate was issued, to the secretary of the board, within thirty days of such initial registration of a duly registered architect. On or before the first day of May of each year the secretary of the board shall mail to every architect registered in the state of New York a blank application of re-registration, addressing the same in accordance with the post-office address given at the last previous registration. Upon receipt of such application blank, which shall contain space for the insertion of his or her name, office and post-office address, date and number of his or her certificate and such other information as the regents deem necessary, he or she shall sign and swear to the accuracy of the same before a notary public, after which he or she shall forward this sworn statement and application for the renewal of his or her registration certificate to the secretary of the board together with the fee of two dollars. Upon receipt of such application and fee and having verified the accuracy of the same by comparison with the applicant's initial registration statements the secretary of the board shall issue a certificate of registration which shall render the holder thereof a legal practitioner of architecture for the ensuing year. These certificates of registration shall bear date

of September first of the year of issue, and shall expire on the thirty-first day of August in the year following. Applications for renewal of registration therefor must be made on or before the first day of September of each year, and if not so made an additional fee of one dollar for each thirty days' delay beyond the first day of September and up to the first day of January shall be added to the regular fee. On the first day of January of each year, or within ten days thereafter, the secretary of the board shall publish and mail to every registered architect in the state of New York a printed list of the legally registered architects within the state, and each such published list shall contain at the beginning thereof these words: "Each registered architect receiving this list is requested to report to the secretary of the board the names and addresses of any architects known to be practicing architecture whose names do not appear in this registry. The names of persons giving such information shall not be divulged." Should any architect continue to practice architecture beyond the first day of January, despite the fact that his or her name does not appear in the registry, he or she shall be counted as an illegal practitioner, and his or her certificate may be suspended or revoked by the regents, as provided for in this section. All practitioners of architecture already registered in this state at the time of the passage of this act shall make application to the secretary of the board for the re-registration blank upon receipt of which he or she shall, in like manner already described, make application for re-registration, forwarding to the secretary of the board the re-registration blank properly filled in and accompanied by the fee of two dollars. Said application and fee must reach the secretary on or before the first day of December following the adoption of this article, failing which the delinquent shall be dealt with as outlined in this section.

The fees obtained from the renewal of registration of architects as required by this section shall be remitted by the secretary of the board to the regents to be applied as hereinafter provided.

4. The regents may revoke any certificate, if such action be recommended by the board, after thirty days' written notice to the holder thereof and after a hearing before the board, upon proof that the holder of such certificate is practicing in violation of subdivision three of this section; or upon proof that such certificate has been obtained or that the person mentioned therein has obtained such certificate by fraud or misrepresentation; or upon proof that any money was paid for such certificate except the regular fees hereinbefore set forth; or upon proof that the holder of such certificate is falsely impersonating a practitioner or former practitioner of the like or different name or who is practicing under an assumed, fictitious or corporate name, or upon proof that the holder of such certificate has been guilty of a felony in connection with the practice of architecture.

§ 79-b. **Violation of article.** Any violation of this article shall be a misdemeanor, punishable for the first offense by a fine of not less than fifty and not more than one hundred dollars, and for a

subsequent offense by a fine of not less than two hundred nor more than five hundred dollars, or imprisonment for not more than one year, or both.

§ 79-c. **Certificate presumptive evidence.** Every unrevoked certificate and certificate of registry made as provided in this article shall be presumptive evidence in all courts and places that the person named therein is legally registered. Any registration in accordance with this article shall be lawful authority to practice architecture.

§ 79-d. **Conviction and prosecution of offenders.** All violations of this article when reported to the regents and duly substantiated by affidavits or other satisfactory evidence shall be investigated by it and if the report is found to be true and the evidence substantiated the regents shall report such violations to the attorney-general and request prompt prosecution.

The regents may appoint inspectors for the purpose of enforcing this section and the salaries and expenses shall be paid from such funds as may be available therefor.

§ 79-e. **Fees, fines, penalties.** The fees obtained from the renewals of registration of architects as required by this section shall be remitted by the secretary of the board to the regents to be applied as hereinafter provided. All fees, fines, penalties and other moneys derived from the operation of this article shall be paid to the regents, who shall account for the same and who shall pay therefrom all salaries and expenses incurred by the board, the secretary of the board and the regents, in carrying out the provisions of this act, and who shall pay into the state treasury, after the payment of these charges, any portion of such moneys remaining unexpended.

§ 2. This act shall take effect immediately.

CHAPTER 462

AN ACT to authorize and empower the city of Albany to lease or sell and convey an easement in a plot of ground from real estate belonging to the city of Albany, known as Sheridan park, for the purpose, and to be used for the erection thereon of a building for the Albany Law School, now constituting the law department of Union University.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of Albany is hereby authorized and empowered to lease or sell and convey to the Albany Law School, now constituting the law department of Union University, an easement in a plot of ground sufficient and adequate in size for the purpose hereinafter mentioned from that portion of real estate to which the city of Albany is now seized and possessed and as it

is now constituted and existing, known as Sheridan park, which plot of land shall be accurately divided and described by metes and bounds in the conveyance, lease or grant thereof, and which conveyance, lease or grant thereof shall be made upon the condition that there shall be erected upon such lands so granted, leased or conveyed within three years after the execution and delivery of such grant, lease or conveyance, a building which shall be used upon completion and thereafter to be used for the education of students at law, under penalty of the forfeiture of said lands to the city of Albany upon failure of said condition. The commissioner of public works of such city shall have authority, subject to the approval of the persons or authorities in control of said building, to lay out and maintain said premises and grounds as if the same were still a part of the lands used for park purposes.

§ 2. This act shall take effect immediately.

CHAPTER 463

AN ACT to amend the charter of the city of Cortland, in relation to free concerts and public musical instruction.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-six of chapter one hundred and sixty of the laws of nineteen hundred, entitled "An act to incorporate the city of Cortland," as added by chapter three hundred and eighty-five of the laws of nineteen hundred and eight, is hereby amended to read as follows:

L. 1900, ch. 160, § 66, as added by L. 1908, ch. 385, amended.

§ 66. **Additional powers of the common council.** The common council shall have power to expend annually, and to audit and draw orders on the general city fund therefor, such¹ sum as it shall deem advisable,² in providing for free concerts and music for the public park therein, and for free public musical entertainments in the city of Cortland, and for free musical instruction and education of the public.

§ 2. This act shall take effect immediately.

¹ Word "such" substituted for word "a."

² Words "as it shall deem advisable" substituted for words "not exceeding three hundred dollars annually."

CHAPTER 464

AN ACT to amend the education law, in relation to compulsory education.¹

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 21 (re-vision of L. 1910, ch. 140), § 827, as amended by L. 1913, ch. 748, and L. 1921, ch. 386, amended.

Section 1. Section six hundred and twenty-seven of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education; constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten and by chapter seven hundred and forty-eight of the laws of nineteen hundred and thirteen and as amended by chapter three hundred and eighty-six of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 627. **Employer must file employment certificates and return certificate to minor or to employment certifying officer.** The employer of any minor between fourteen and eighteen years of age in a city or district shall keep and shall file in the place where such minor is employed, the employment certificate or vacation employment certificate of the minor, if such minor is required to obtain such an employment certificate under the provisions of section six hundred and twenty-six of this chapter.

Within three days, he shall report to the employment certifying officer the beginning of the minor's employment and upon the surrender of the minor's identification certificate shall return his employment certificate to him and mail his identification certificate to the employment certifying officer, but if the minor terminates his employment without notice or without the surrender of his identification certificate, then the employer shall return at once to the employment certifying officer the minor's employment certificate. In the case of a minor to whom a vacation employment certificate or a general employment certificate for agricultural work only is issued, the employer shall endorse thereon the dates of the beginning and termination of the minor's employment and a description of the work performed.

§ 628, as amended by L. 1913, ch. 748 and L. 1921, ch. 386, amended.

§ 2. Section six hundred and twenty-eight of such chapter as amended by chapter seven hundred and forty-eight of the laws of nineteen hundred and thirteen, and by chapter three hundred and eighty-six of the laws of nineteen hundred and twenty-one is hereby amended to read as follows:

§ 628. **Punishment for unlawful employment of children or minors, and for children or minors being insubordinate or disorderly or unlawfully engaged in the sale or distribution of newspapers, periodicals or magazines.**

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

1. Any person, firm or corporation or any officer, manager, superintendent or employee acting therefor who violates the provisions of sections six hundred and twenty-six and six hundred and twenty-seven of this chapter and any person in parental relation to a child or minor included by the provisions of this chapter who does not cause such child or minor to be subordinate and orderly when in attendance upon instruction as required by this chapter and to comply with the provisions of sections six hundred and twenty-six and six hundred and thirty-one of this chapter shall be guilty of a misdemeanor and the punishment therefor shall be for a first offense a fine of not more than fifty dollars; or imprisonment for not more than ten days; for a second and each subsequent offense, a fine of not more than two hundred dollars or both such fine and imprisonment. A prosecution instituted under this section shall be deemed a bar to prosecution under the provisions of any other statute based on the same state of facts.

2. In case, however, the person in parental relation to such a child or minor establishes to the satisfaction of the court that the child or minor is beyond his control such child or minor shall then be subject to the provisions of section six hundred and thirty-five of this chapter, except in respect to unlawful employment, and in the discretion of the school authorities may be proceeded against for violation of this act.

3. Attendance officers who are hereby vested with the powers of peace officers for the purpose shall enforce the provisions of this act.

§ 3. Section six hundred and thirty-one of such chapter as amended by chapter seven hundred and forty-eight of the laws of nineteen hundred and thirteen and by chapter three hundred and eighty-six of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 631, as amended by L. 1913, ch. 748 and L. 1921, ch. 366, amended.

§ 631. Issuance of employment certificates, vacation employment certificates, newsboy permit badges.

1. A general employment certificate shall be valid only for the regular and permanent employment of a minor by the employer named therein except when issued for agricultural work only.

2. A vacation employment certificate and a general employment certificate for agricultural work only shall be valid for the temporary employment of a minor by successive employers.

3. A vacation employment certificate shall be valid for the employment of a minor in a mercantile establishment or business office or in outdoor work when attendance upon instruction is not required but not in a factory nor before morning school hours. It shall be issued at the discretion of the employment certifying officer for a definite period not exceeding five months, but if any such certificate expires between the first day of July and the thirty-first day of August, it shall, notwithstanding, continue in force until the thirty-first day of August of such year.

4. An employment certificate shall not be valid for the employment of a girl under eighteen years of age to deliver mess-

ages or articles of any kind outside of the place of her employment.

5. A minor while employed shall keep in his possession the identification certificate issued to him and shall produce it on demand of a representative of the department of labor or of the school authorities.

6. Employment certificates, vacation employment certificates and newsboy permit badges shall be issued only by the following officials: In cities and school districts having a population of four thousand five hundred or more, by the superintendent of schools, elsewhere by the district superintendent; provided that any such superintendent of schools may authorize and depute in writing one or more public school officials other than attendance officers to act in his stead, as employment certifying officers in accordance with the regulations of the commissioner of education. The number of persons so deputized as employment certifying officers, except for the purpose of issuing newsboy permit badges, shall not exceed the proportion of one for each quarter million of the population or fraction thereof of any such city or school district. A district superintendent under the rules laid down by the commissioner of education may depute in writing such principals of union free schools, school officers, or employees, other than attendance officers as may be necessary to act as employment certifying officers.

7. Procedure. A general employment certificate shall be issued for a minor between fourteen and eighteen years of age in accordance with the following procedure:

A. The parent, guardian or custodian of the minor shall make application in person for the issuance of a school record certificate to the principal, chief executive officer of the school which the minor attends or as otherwise provided in section six hundred and thirty of this chapter.

B. The minor shall then present the application of parent, the school record certificate and evidence of age as hereinafter prescribed to the employment certifying officer for examination and approval. If any of these papers are unsatisfactory the employment certifying officer shall reject the applicant. If they are approved and if the minor is under sixteen years of age and is not a graduate of an elementary school course of study, he shall also test the minor as to his ability to read and write simple sentences in the English language, and shall sign and file a statement as to the minor's ability in these respects together with the sentences written by the minor. If the minor fails in the test he shall be rejected, but if he succeeds or if he is not required to take the test, the employment certifying officer shall transmit the evidence of age to the board of health.

C. Such board shall designate a medical officer who shall make a thorough physical examination of the minor. He shall record the results of the examination and such other facts concerning the minor's physical condition and history as may be required on the record of physical examination provided for that purpose.

If the medical officer shall find that the minor has reached the normal development of a child of his age and is in sound health, he shall then issue to the minor a certificate of physical fitness stating these facts. If he finds the minor to be physically unfit in either of these respects he shall certify these facts and return the evidence of age to the employment certificating officer who shall reject the applicant.

D. If the minor receives a certificate of physical fitness and is under sixteen years of age the employment certificating officer shall issue to the minor a statement that an employment certificate will be granted to him upon the presentation of a statement signed by the prospective employer or by his duly authorized representative that he expects to give the minor present employment and setting forth the character of such employment and the number of hours per day and per week which the minor will be employed and the location of the place of employment.

E. Upon the presentation by the minor of the statement signed by the prospective employer or if the minor be more than sixteen years of age upon the receipt of the certificate of physical fitness, the employment certificating officer shall issue to the minor a general employment certificate together with an identification certificate containing the number of the employment certificate and the principal facts entered thereon.

F. The employment certificating officer shall sign an employment certificate and the minor to whom it is issued shall sign it in his presence.

8. For the issuance of a general employment certificate for agricultural work only no statement of the prospective employer shall be required; for the issuance of a vacation employment certificate, the school record certificate and the test in reading and writing shall be required, otherwise the foregoing procedure shall be followed.

9. Contents of employment certificate. An employment certificate shall contain the name, place of residence, date of birth, height, color of hair and color of eyes of the minor. Except in the case of a general employment certificate for agricultural work only and a vacation employment certificate it shall also contain the name and place of business of the prospective employer and a description of the work which the minor expects to perform.

10. Reissuance of employment certificates. Any employed minor between fourteen and eighteen years of age for whom an employment certificate is required by the provisions of this chapter, shall obtain a new employment certificate before taking up new employment, except a minor to whom a general employment certificate for agricultural work only or a vacation employment certificate has been issued, and unless he shall be in possession of an employment certificate lawfully issued to him prior to September first, nineteen hundred and twenty-one. He shall be entitled thereto upon the return to the employment certificating officer of the old employment certificate or of his identification certificate and if the minor is between fourteen and sixteen years of age

upon the presentation to such officer of a statement from the prospective employer as hereinbefore provided. But if the employment certificate formerly issued cannot be produced and if the employment certificating officer is satisfied that the minor's application is made in good faith, provided it can be shown that such a certificate had been issued to the minor, then the employment certificating officer may issue to the minor a new employment certificate.

11. Evidence of age. The evidence of age shall show that the child is at least the age required for the issuance of the school record certificate and shall be as follows:

a. Birth certificate: passport or baptismal certificate. A certified transcript of the birth certificate filed according to law; a duly certified transcript of a record of baptism or a passport, showing the date of birth of the child.

b. Other documentary evidence. If the child appears to the employment certificating officer to be of the required age and can furnish none of the evidence mentioned in subdivision a but can furnish other satisfactory documentary evidence of age, such officer may accept such documentary evidence as sufficient as to the age of such child, and shall file a statement showing such facts and the nature of the evidence.

c. Physicians' certificates of age. If the child appears in the school records and to the employment certificating officer to be the required age and can furnish no documentary evidence of age, the employment certificating officer may receive an application signed by the child's parent, guardian, or custodian for physicians' certificates as herein provided. The application shall be on file for not less than forty days and shall contain (1) The name, the place and date of birth and the present residence of the child; (2) such further facts as may aid in determining the child's age. If within such period no facts appear to contradict any material statement of such application the officer shall direct the child to appear for physical examination before two physicians who shall be designated by the board of health. If the physicians certify in writing that they have separately examined the child and that the child is at least of the required age, such certificate shall be sufficient evidence of age. If their opinions do not concur the child shall be examined by a third physician similarly designated and the concurring opinions shall be accepted as evidence of the age of the child.

d. The employment certificating officer shall require evidence of age in the order designated in this subdivision and shall not accept the evidence permitted in paragraph b or c of this subdivision unless he receives and files in addition a statement signed by the child's parent, guardian or custodian that he has made every effort to obtain the evidence specified in the preceding paragraph or paragraphs and that none can be procured.

12. Fee for making physical examinations. Except in a city of the first class and of the second class, a fee not exceeding fifty cents shall be paid to the physician designated by the board of

health for the physical examination required by the provisions of this section and this fee shall be a charge against the city, town or village where the child resides.

13. Newsboy permit badge. a. When the schools are in session a newsboy permit badge shall be issued only on the personal application of the parent, guardian or custodian to the principal of the school the boy attends and the certificate of such principal that the boy is of normal development and physically fit for such employment* and is twelve years of age or upwards as shown by the school records, and when the schools are not in session upon the similar certification as complete as may be of the employment certifying officer, who in either case shall file the certificate.

b. The newsboy permit badge shall be worn in plain sight whenever the boy to whom it was issued is engaged in the work it authorizes him to do.

14. Revocation of employment certificates and newsboy permit badges. An employment certificate or a newsboy permit badge may be revoked for cause by the superintendent of schools or the district superintendent of schools within their respective jurisdictions.

15. Any person who makes a false statement in or in relation to any employment certificate as to any matters required by this act or in any affidavit, record, transcript or certificate therein provided for, is guilty of an offense, punishable in each case by a fine of not more than a hundred dollars or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

16. The commissioner of education is hereby authorized to prescribe the form and content of all certificates and newsboy permit badges required by this chapter except that in the case of the record of physical examination, the approval of the commissioner of health shall also be required, and in the case of the employment certificate the approval of the industrial commissioner.

§ 4. Article twenty-two-a² of this chapter is hereby repealed.

Art. 22a
repealed.

§ 5. This act shall take effect immediately.

CHAPTER 465

AN ACT in relation to the establishment of home schools in cities of the second class.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Establishment of home schools. The common council of any city of the second class may adopt a resolution by a majority vote establishing a home school for the purpose of giving instructions in the trades, industrial, agricultural and home-

* So in original [word misspelled].

² Art. 22a, as added by L. 1921, ch. 21, evidently intended.

making subjects in addition to instruction in public school subjects to children of the city and other children not more than eighteen years nor less than eight years of age who may be admitted thereto as hereinafter provided. Such school shall be known as the Home School of (Name of city establishing school.)

§ 2. **Acquisition of lands and erection of buildings.** Upon the adoption of the resolution as provided in the foregoing section the city, through its properly constituted officers having power and jurisdiction therein, shall lease or purchase land in some convenient, accessible place in the county in which such city is located and not less than six miles from the center of the city to be used for the purpose of such school. Such land may be acquired by gift, purchase or condemnation. The land when so acquired shall be held in the name of the city for the benefit of such school. Upon acquisition of such land the city shall erect the necessary buildings and suitably equip them for use. Such city may also provide for the improvement of existing buildings and make such repairs and alterations upon the buildings upon the land used for the purposes of the school as may be necessary for the maintenance and operation thereof.

§ 3. **Board of managers.** The board of managers of such school shall consist of not less than five members to be appointed by the mayor of such city and of which board the superintendent of schools in any such city shall be one member ex-officio. Members of the board other than the said superintendent shall be appointed from resident taxpayers of the city who shall serve for terms of four years commencing upon the first day of January succeeding the appointment. Such terms will be so arranged that the terms of no two of the members so appointed shall expire in the same year, and for this purpose the terms of members first appointed hereunder shall be as follows: In case one member shall be appointed the term shall be four years; in case two members are appointed the term shall be four and two years respectively; in case three members are appointed the term shall be four, three and two years; in case four members shall be appointed the terms shall be four, three, two and one year respectively. Such term shall commence on the first day of January succeeding the appointment and their successors shall be appointed for a full term of four years as above provided. Appointments to fill vacancies shall be for the unexpired portion of the terms. The members of the board shall serve without compensation. They shall receive their necessary expenses incurred in the performance of their duties. The amount of such expenses shall be charged against the city and paid in the same manner as other city charges. The board shall organize by the election of one of its members as chairman and another as secretary.

§ 4. **Powers and duties of managers.** The board of managers of such school shall be responsible for the operation and maintenance of the school; employ a superintendent and such teachers and assistants as may be required for the operation and main-

tenance of the school; fix compensation of such superintendent, teachers and assistants within the amount made available therefor by the board of estimate and apportionment of such city; prescribe rules and regulations for the management of the school and for the purpose of carrying into effect the object thereof; provide for the detention, maintenance and instruction of all children who are admitted to the school. Such board shall on or before the first day of January each year furnish to the mayor estimates in writing of the amount of expenditures for the next fiscal year. All expenses and appropriations for such school shall be subject to the provisions of sections seventy-three, seventy-four, seventy-five, seventy-six and seventy-seven of second class cities law, and of any and all other provisions of said law applicable thereto.

§ 5. **Further powers and duties of board of managers.** The board of managers shall have full power to discharge or parole at any time any child admitted to such school. A child under sixteen years of age committed to the school by a court and paroled for good conduct may be arrested and detained in the school for violation of the terms of his parole.

§ 8. **Powers of superintendent and discipline of school.** The superintendent of the school shall, subject to the regulations of the board of managers:

1. Have the general management of the school, land, buildings and equipment thereof, and devote his entire time to its affairs;

2. Supervise and direct the methods of instruction and the performance of duties by the teachers, assistants and employees of such school;

3. Be responsible for the welfare of the pupils of the school, see that the regulations and directions of the board of managers are carried into effect;

4. Prescribe rules for the government and discipline of the pupils of the school and cause such rules to be enforced. Discipline shall be maintained by the honor system so far as practicable. Close or solitary confinement shall not be used excepting when necessary for the maintenance of proper discipline;

5. Protect and care for the property of the school;

6. Give special attention to the proper instruction, detention, restraint, discipline, comfort, physical and moral welfare of the pupils of the schools and perform such other duties as may be required of him by the board of managers with a view of carrying out the provisions of this article.

7. Course of instruction. The board of managers shall prescribe the course of instruction to be followed in such school, subject to the approval of the commissioner of education. Such instruction shall include instruction in agriculture, mechanic arts, trades and homemaking and in the duties, responsibilities and privileges of citizenship. The provisions of this chapter and of

the regulations of the education department relating to vocational instruction in the public schools shall apply to such school so far as they do not conflict with the provisions of this article and may be made applicable thereto.

8. State aid. There shall be annually apportioned to such school from the moneys appropriated by the state legislature for the support of the public schools of the state the sum of one thousand dollars and an additional sum of two hundred dollars for each teacher employed therein for a period of thirty-six weeks during each school year, whose entire time is given to the instruction of pupils in such school. No such apportionment shall be made unless there are at least fifteen pupils enrolled and actually in attendance at such school during such period of thirty-six weeks, and unless such school maintains an organization and a course of study, and is conducted in a manner approved by the commissioner of education.

§ 9. Children admitted to such school. Children not more than eighteen nor less than eight years of age may be admitted to or received in such school as follows:

1. Upon the application of the parents or guardians having the legal custody and control of such children accompanied by the written consent of such parents and guardians;

2. Truants, incorrigible pupils or coming within any of the descriptions of children mentioned in section six hundred and thirty-five of the education law upon commitment thereto either by the school authorities or by a court having jurisdiction thereof;

3. Coming within any of the descriptions of children mentioned in sections four hundred and eighty-five and four hundred and eighty-six of the penal law upon commitment thereto by a court;

4. Children under twelve years found guilty of juvenile delinquency;

5. Children over twelve and under sixteen years of age found guilty of juvenile delinquency for the first time and for an offense of a grade not higher than misdemeanor.

Children resident in the city establishing such school duly committed thereto shall be received therein. The board of managers may in their discretion and upon such terms as to payment of expenses as they see fit, admit children resident in the county in which said city is situated or resident in any adjoining county not having a second class city.

§ 10. Jurisdiction of courts. Courts having jurisdiction of children shall have power to commit children to the school who are receivable therein as set forth in the foregoing section. Commitments by such courts shall be in accordance with the provisions of the penal law and code of criminal procedure applicable thereto. The commitment shall not be for any fixed period of detention. Such detention shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of the

child so committed to its home, if after due investigation such home is found to be satisfactory. The provisions of section four hundred and eighty-six of the penal law as to commitments to institutions shall apply fully to commitments to the school.

§ 11. **Transfer of pupils.** The board of managers shall have full power to transfer to other institutions any child committed by a court found to be incorrigible, not amenable to proper discipline and training of the school or feeble-minded, in the manner and by the methods prescribed and set forth in section four hundred and eighty-six of the penal law.

§ 12. **Quarantine.** A pupil committed to the school either by court or school authorities upon being received shall be kept separate and apart for a period of not less than seven days. During this time a complete physical and mental examination of such child shall be made by qualified physicians. Such physicians shall make reports in writing to the superintendent stating fully the results of such examinations; such reports shall be kept on file by the superintendent in proper and systematic order.

During the period of such quarantine the superintendent and teachers shall give special attention to the pupil with a view of obtaining knowledge of the child and gaining his confidence.

§ 13. **Agreement with parents and guardians to pay expense of maintenance; compulsory support.** The board of managers may make an agreement with the parents or guardian of a child in such school for the payment of an amount therein specified for the instruction and maintenance of such pupil. An application for the admission of a child with the consent of the parents or guardian shall not be granted unless suitable provision be made for the clothing of such child. The amount agreed to be paid for instruction, maintenance and clothing shall be secured to the satisfaction of the board of managers. Such board shall ascertain by investigation the financial ability of parents, guardians and other persons legally liable for the support of pupils admitted to such school upon commitment, and may demand of such parents, guardians or persons the payment of an amount reasonably sufficient to pay all or a portion of the cost of instruction, maintenance, and clothing of such pupils. The board may proceed against such parents, guardians or persons, by proper suit or proceeding in a court of competent jurisdiction for the recovery of the amount agreed or required to be paid, as herein provided. The amount so recovered, after the payment of the proper costs and expenses of such suit or proceeding, shall be paid into the treasury of the city, and shall be applied to the payment of the cost of the instruction, maintenance and clothing of such pupils. Such action at law shall be brought in the name of the city by the corporation counsel thereof.

This provision shall in no way affect the power of the committing court to order payment as provided in section nine hundred and twenty-one-b of the code of criminal procedure.

Children committed either by court or school authorities of the

city shall be a charge upon such city. Children so committed from outside of the city shall be a charge upon the city, incorporated village or township from which committed.

§ 14. **Maintenance by city.** The board of estimate and apportionment shall provide for the maintenance of such school, the repair and improvement of the lands and buildings used or occupied thereby, and the equipment thereof with necessary machinery, tools, apparatus and supplies. The cost thereof, and the expenses incurred for such purposes, shall be charged against the city and shall be audited and paid in the same manner as other charges against the city. The maintenance herein provided for shall include the support, instruction, care, board and clothing of pupils and such other expenses as are necessarily incurred in the operation of the school.

§ 15. **Report of superintendent.** The superintendent of the school shall report annually to the mayor in accordance with the provisions of section twenty-three of the second-class cities law. Such report shall be countersigned by a majority of the board of managers. The mayor shall have power to inspect the school at any time, and may appoint a committee of citizens who shall have power to inspect such school and for such purpose may enter upon the lands and into the buildings of such school at all reasonable times.

§ 16. **Powers of commissioner of education and state department of education.** A school established as provided herein shall be deemed a part of the public school system of the state, and shall be subject to the supervision and control of the commissioner of education and the state department of education in the same manner as other public schools, and shall not be subject to any of the laws of the state relating to charitable or penal institutions.

§ 17. This act shall take effect immediately.

CHAPTER 466

AN ACT to amend chapter six hundred and sixty of the laws of nineteen hundred and thirteen, entitled "An act to establish and maintain a water department in and for the city of Elmira," in relation to nomination and election of water commissioners.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2a added
to L. 1913,
ch. 660.

Section 1. Chapter six hundred and sixty of the laws of nineteen hundred and thirteen, entitled "An act to establish and maintain a water department in and for the city of Elmira," as amended by chapter six hundred and sixty of the laws of nine-

teen hundred and fifteen, is hereby amended by adding thereto a new section, to be section two-a, to read as follows:

§ 2-a. **The election of water commissioners shall be by ballot.** At least ten days before the date fixed for such election each candidate shall file in the city clerk's office a petition signed by at least twenty-five electors, duly qualified to vote within the provisions of this act, designating said person as a candidate for election as a commissioner of the Elmira water board. The city clerk shall prepare, cause to be printed and supplied for use at such election official ballots. No names of candidates for election to the office of commissioner shall be printed upon the official ballot except upon nomination duly made as prescribed herein nor shall any names, signs or writing be printed, written, stamped or in any manner placed upon the official ballot except as follows: Instructions to voters, conforming to those on the general officers' ballot, but without the reference to an emblem; title of the office; direction as to the number to be voted for; names of nominated candidates; voting square at the left of each name; below the name or names, a blank space or spaces in which the voter may write the name of any person for whom he desires to vote whose name is not printed on the ballot.

§ 2. This act shall take effect immediately.

CHAPTER 467

AN ACT to amend chapter twenty-nine of the laws of nineteen hundred and eight, entitled "An act to incorporate the city of Glens Falls," in relation to publication of notice for the construction and repair of sidewalks.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty of chapter twenty-nine of the laws of nineteen hundred and eight, entitled "An act to incorporate the city of Glens Falls," is hereby amended to read as follows:

§ 50. **Sidewalks, construction and repair thereof, assessment of expense.** The common council shall have power to require sidewalks and curbs and the whole or any part of such sidewalks or curbs of said city to be constructed, made, paved, flagged, curbed, relaid, reset, mended or repaired by the owners or possessors of land adjoining such sidewalks or curbs and to require any or either of such improvements, acts or things to be made or done in such a manner, at such times and of such materials as it may prescribe and direct. Such improvements shall conform to the grades established or to be established before such improvements are made. The common council in the resolutions or ordinances requiring any of the improvements, acts or things authorized by

L. 1908, ch.
29, § 50
amended.

this section, shall specify in what manner and within what time and of what material the same must be made or done. At least ten days before the expiration of the time specified for such performance it shall cause to be served upon the owners of the lands adjoining such sidewalks or curbs so to be improved as aforesaid, a copy of said resolution or ordinance, with a notice, that, if the same is not done within the specified time by the several owners of the adjacent lands, it will be done by said common council at the expense of such owner. Such service shall be made upon the owner by delivering the same to him personally or by leaving the same, in his absence, with some member of his family or person of suitable age, residing with him. In case the land is unoccupied or the owner a non-resident, such service may be made upon the agent of such owner if known to the common council or by depositing the same in the postoffice, properly enclosed with the postage thereon prepaid, and directed to such owner at his place of residence or the postoffice nearest his place of residence. In case such owner or his place of residence is unknown, and there is no resident agent to the knowledge of the common council, such service may be made by affixing a copy of such ordinance or resolution and notice upon a conspicuous part of said premises; and in such case¹ the common council shall also, at least ten days before the expiration of the time specified for the performance, cause a copy of such resolution or ordinance to be published at least once in the official paper of said city. Affidavits of the service and publication of such resolution or ordinance may be filed or recorded, or both, in the office of the clerk of said city, and the affidavits or the records thereof, or a certified copy of either, shall, in all courts and places, actions and proceedings, be prima facie evidence of the facts stated therein. In case any such improvements, act or thing required shall not be made, done or completed, as required, within the time so specified, the common council shall have the power to make, or to complete the same, and having done so, shall without giving any further notice, proceed to make a special assessment roll of the expense thereof against the delinquent owners and upon said adjoining lands owned by them, assessing upon each parcel or lot of land the expense of the sidewalks and curb immediately upon and abutting it and file the same with the city clerk. Whereupon the said city clerk shall give notice in the official newspaper of the city that the same has been left with him and may be examined by all persons interested; and that at a time and place to be specified in said notice, which shall be not less than ten days from the first publication thereof, the common council will hear and act upon the application of any person deeming himself aggrieved by said special assessment, to have the same altered or corrected, as he may deem just. After hearing all such applications, the common council may proceed to make such alterations

¹ Words "and in such case" new. The remainder of this sentence formerly comprised a separate sentence.

and corrections, if any, in said special assessment roll, as it may deem just, and by resolution confirm the same. And said assessment shall thereupon* become and be final and conclusive upon all parties interested in the real estate affected thereby, and the said assessment shall be collected in the manner prescribed for the collection of special assessments in this act. If the lessee of any property is obliged to pay any assessment as above provided, he may deduct that amount from the rent to be paid the owner. It shall be the duty of every owner or occupant of every lot or piece of land to keep the sidewalks adjoining his lot or piece of land at all times clean and free from snow, ice or other obstructions. It shall be the duty of such owner or occupant to remove new ice and freshly fallen snow from such sidewalks and to keep the same so cleaned and removed at all times. In case such owner or occupant shall neglect or refuse to clean said sidewalk within such time as required, he shall be subject to such fine or penalty therefor as shall be specified by the common council and in addition thereto the superintendent of public works shall, in such case, proceed to clean the same without notice to such owner or occupant. In case any sidewalk in said city shall, at any time, in the judgment of the superintendent of public works otherwise require cleaning, said superintendent shall serve a notice upon the owner or occupant of the property requiring him to clean the same within twenty-four hours after the service of such notice. Such notice shall be served in the same manner as the notice for the construction or repair of sidewalks and curbstones as provided in the next preceding section. If such notice be served by mail the owner shall have three days after service thereof within which to comply with such requirements. If any person so required to do any such cleaning shall neglect or refuse to do the same within the time prescribed therefor, the said superintendent shall clean the same in such manner as he shall deem proper and suitable, in which case he shall report the fact and the expense thereof to the owner, in the same manner as notices to do the cleaning, requiring the payment of such expenses to the city chamberlain within ten days after the delivery or mailing of such statement. If such expense be not paid to the city chamberlain within the time prescribed therefor, the said superintendent shall file his affidavit of the actual expenses thereof with the clerk of the city and the same shall thereupon be assessed by the common council and collected the same as other local assessments.

§ 2. This act shall take effect immediately.

* So in original [word misspelled].

CHAPTER 468

AN ACT to amend the charter of the city of Glens Falls, in relation to costs of paving.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1903, ch.
29, § 45,
as amended
by L. 1909,
ch. 550,
amended.

Section 1. Section forty-five of chapter twenty-nine of the laws of nineteen hundred and eight, entitled "An act to incorporate the city of Glens Falls," as amended by chapter five hundred and fifty of the laws of nineteen hundred and nine, is hereby amended to read as follows:

§ 45. **Costs of paving.** The expenses of such paving improvements as are made along and are adjacent to any property owned by the city, and intersections of streets and one-half of the remainder of such improvements exclusive of the amount charged to any railroad company, shall be paid by the city at large from the street fund. The balance of the expense of such improvement shall be paid and become a charge upon and shall be assessed against such real estate and real property abutting and adjacent to the street or streets, alleys, public places or way or any part thereof and by and against any railroad company whose rails or tracks occupy any portion of that part of the street or other way or public place so improved; but no part of the expense of such improvements shall be assessed upon any lands not bordering upon or touching the part or parts of such street, or other way or public place upon which such improvements are made. The common council shall determine and assess upon any railway company liable to assessment hereunder its share of the costs of such improvements and the said assessment shall be collected in the same manner as other assessments are collected by the chamberlain as provided in this act. The common council shall assess one-half of the residue of such expense upon the real estate fronting upon said street or section of a street, public place or square so paved, each property owner being assessed one-half of the expense of the paving abutting on his premises exclusive of the amount paid by any railroad corporation, and shall thereupon cause a notice to be published twice in the official papers of said city, that the assessment roll has been filed with the city clerk and that the common council will on a certain day and place to be therein specified, which shall not be less than ten days from the first publication of said notice, proceed to confirm said assessment. At the time and place named in said notice or at any time or place to which the common council may from time to time adjourn said hearing, any person interested may appear before the common council and apply to have said special assess-

ment roll altered or corrected as he may deem just. After hearing all such applications the common council may proceed to make such alterations and corrections in said special assessment roll, as it may deem just, and by resolution confirm the same; the said assessment shall thereupon be and become final and conclusive upon all parties interested. The above provision relating to paving and the cost thereof shall be construed in relation to and in connection with the provisions of existing franchises granted to street railway companies operating within the city of Glens Falls.

¹ The property owner assessed as above provided may pay his assessment in five equal annual instalments. The first instalment shall become due and payable one day after the notice of receiving taxes is published by the chamberlain, and the remaining instalments shall become due and payable annually thereafter until the whole amount is paid. At the time any instalment is due the property owner may pay all the instalments remaining unpaid. Interest at the rate of six per centum per annum shall be charged on all deferred payments, and if the payments are not made when due, the chamberlain shall collect the additional per centums mentioned in section one hundred and forty-seven of this act. The chamberlain shall not be required to publish notice of receiving taxes except in the year the assessment is made. The common council may borrow upon the credit of the city sufficient money to pay the paving costs assessed against the property owners; such loan to be paid not later than five years after the debt is incurred, and the payments made by the property owners shall be applied to the payment of such loan.

§ 2. This act shall take effect immediately.

CHAPTER 469

AN ACT to authorize the city of Hudson to borrow money by the issue of bonds for the purpose of meeting deficiencies of the board of education.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Hudson is hereby authorized and empowered by resolution to issue and sell bonds payable in not more than three equal annual installments, the first of which shall become payable in the year nineteen hundred and twenty-four, in the name, in behalf of, and upon the credit of said city in an amount not exceeding six thousand dollars, for

Bond issue authorized.

¹ Remainder of section new.

the purpose of paying all existing claims due and owing by the board of education of said city, and also to provide sufficient funds to liquidate the necessary expenses of said board of education for the current fiscal year.

Bonds;
execution,
denomina-
tion, etc.

§ 2. Said bonds shall be issued in the name and under the seal of said city, shall be signed by the mayor and the city clerk thereof, and shall be for the sum of one thousand dollars each. They shall be payable in not more than three equal annual instalments, the longest term of any one of which shall be not more than four years from the date of their issue, and the first installment of which shall be payable in the year nineteen hundred and twenty-four, with interest payable semi-annually at a rate not exceeding five per centum per annum, and the principal and interest thereof shall be payable at the office of the city treasurer. They shall be known and designated as "school deficiency bonds" and be in such form as the common council shall prescribe, and shall contain a recital that they are issued pursuant to and in conformity with the provisions of this act. And the city clerk of said city shall keep a record of the number of each of said bonds, its date, amount, rate of interest, when payable and the name of the purchaser thereof.

Bonds;
sale.

§ 3. The common council shall sell and dispose of said bonds or any part thereof at not less than par value and accrued interest, and the proceeds thereof shall be deposited with the city treasurer to the credit of the board of education.

Tax for
payment.

§ 4. While any bond issued under this act shall remain unpaid, the common council shall annually raise by taxation an amount sufficient to pay the principal and interest of the bonds issued under this act, payable in the then current fiscal year, until the last bond issued by authority of this act shall be fully paid and retired.

§ 5. This act shall take effect immediately.

CHAPTER 470

AN ACT to amend the charter of the city of Hudson, in relation to the collection of taxes.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 221a
added to
L. 1921,
ch. 689.

Section 1. Article eighteen of chapter six hundred and sixty-nine of the laws of nineteen hundred and twenty-one, entitled "An act to revise the charter of the city of Hudson," is hereby amended by adding thereto a new section, to be known as section two hundred and twenty-one-a, as follows:

§ 221-a. Delayed payment as to portion of city tax. If within

one month following the first publication of notice referred to in section two hundred and twenty-one of this act, the city treasurer shall have received from any taxpayer the entire amount of tax levied for state and county tax against such taxpayer in the county lists and not less than forty per centum of the amount of tax levied against such taxpayer on the city lists, then he shall receive the balance of such tax as levied on the city lists against such taxpayer at any time up to and including the thirty-first day of July next following, and no commission for collecting or other fees or interest shall be charged on the taxes so paid. If such balance of tax shall not be paid on or before the thirty-first day of July next following, then the same shall draw interest from the first day of April together with fees and commissions as provided in this act as if no part of such taxes had been paid.

§ 2. Section two hundred and twenty-two of article eighteen § 222 amended. of said chapter is hereby amended to read as follows:

§ 222. **Commissions and fees.** For one month following the expiration of the month specified in such notice any person or corporation may pay his, her or their city, county and state taxes upon paying two and one-half per centum fees thereon, in addition thereto, and after the expiration of such last named month five per centum fees shall be added to the tax and collected by him¹ except as provided by section two hundred and twenty-one-a of this act.

§ 3. Section two hundred and twenty-three of article eighteen § 223 amended. of said chapter is hereby amended to read as follows:

§ 223. **Notice of unpaid taxes.** If any such tax, except as provided by section two hundred and twenty-one-a of this act,² shall remain unpaid on the first day of April in any year after the delivery of the tax lists and warrants, the treasurer shall thereupon cause a written or printed notice to be given to every person, resident within the city, from whom such tax may be due, specifying the amount and percentage of the tax, and requiring the same to be paid on or before the fifteenth day of April of the same year, at his office. Such notice shall be served on the person assessed, by depositing the same in the Hudson postoffice, inclosed in an envelope and directed to the persons assessed, respectively, at Hudson, and paying the postage thereon. If any of the persons assessed shall be known by the treasurer to reside in any other place, then notice shall be directed to such person at such place. It shall not be necessary to make any other demand for payment of said taxes.

§ 4. Section two hundred and twenty-four of article eighteen § 224 amended. of said chapter is hereby amended to read as follows:

§ 224. **Interest on unpaid tax; collection by sale of personal property.** From the fifteenth day of April the interest on the amount of tax unpaid, except as provided by section two hun-

¹ Remainder of section new.

² Words "except as provided by section two hundred and twenty-one-a of this act," new.

dred and twenty-one-a of this act,³ shall be at the rate of one per centum per month in addition to the five per centum fees aforesaid, and after the fifteenth day of April aforesaid it shall be the duty of the treasurer to proceed without delay to levy the tax and fees by distress and sale of the goods and chattels of the person or corporation upon whose real or personal property the tax was apportioned, according to the said tax lists, or of any goods or chattels in his, her or their possession, wheresoever the same may be found in the city of Hudson or county of Columbia. No claim of property made to such goods and chattels shall be available to prevent the sale thereof except in such cases as are provided by the general statutes of this state.

§ 5. This act shall take effect immediately.

CHAPTER 471

AN ACT to amend the charter of the city of Lockport, in relation to contractor's bond.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911, ch.
870, § 228
amended.

Section 1. Section two hundred and twenty-eight of chapter eight hundred and seventy of the laws of nineteen hundred and eleven, entitled "An act to consolidate and revise the laws relating to the city of Lockport," is hereby amended to read as follows:

§ 228. **Contractor's bond; action on bond.** Whenever any contract shall be let for any public or local improvement, the contractor shall execute to the city of Lockport a surety bond, in a sum to be fixed by the common council, not less than the amount of the contract. No contract shall be executed until a surety bond duly executed and approved by the mayor is deposited with the city clerk, to be safely kept in his office for the benefit of the parties secured thereby. Such surety bond shall be conditioned, among other things, for and bind the contractor to, a faithful performance of his contract in accordance with the terms thereof, and to indemnify the city from all damages, costs and expenses to it arising in consequence of any negligence or default on his part, and to pay or cause to be paid the wages or compensation of all laborers who shall be employed in work on or about such improvement, whether employed by him or any subcontractor or employee ¹ and for all material furnished in or about such improve-

³ Words "except as provided by section two hundred and twenty-one-a of this act," new.

¹ Remainder of sentence new.

ment whether to him or any subcontractor. Actions or proceedings on such surety bond by the laborers or material men² claiming to be secured thereby shall be brought in their name or names, and such actions may be brought by each or any number united of such laborers and material men,³ or one action for all, but the city shall not in any manner be liable or responsible by reason of such surety bond or for any costs or expenses of any such action or proceeding thereon, by any such laborers or material men.³ No action shall be commenced on such surety bond by such laborers or material men³ after one year from the time when the cause of action accrued. All past acts of the common council of the city of Lockport, in the matter of exacting bonds from contractors, and the bonds thus exacted, so far as they seek to protect the city, are hereby ratified and confirmed.

§ 2. This act shall take effect immediately.

CHAPTER 472

AN ACT to amend chapter four hundred and eighty-five of the laws of nineteen hundred and eighteen, entitled "An act to allow the common council of the city of Middletown to determine whether it shall pay from the city treasury a portion of the expense of a trunk sewer in said city," in relation to cost of constructing the sewer known as the east side trunk sewer, and determining whether it be borne by the city.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one and two of chapter four hundred and eighty-five of the laws of nineteen hundred and eighteen, entitled "An act to allow the common council of the city of Middletown to determine whether it shall pay from the city treasury a portion of the expense of a trunk sewer in said city," are hereby amended to read, respectively, as follows:

§ 1. The common council of the city of Middletown is hereby authorized to vote upon the question whether or not two-thirds of the cost of constructing the sewer in said city known as the east side trunk sewer, beginning at Lincoln street in the vicinity of Beattie avenue and running by various courses to its intersection with the Draper brook sewer in Genung street, shall be borne by the city and paid from the city treasury.

§ 2. In case said common council shall, at a regular meeting duly determine that two-thirds¹ or a less proportion of said cost shall be borne by said city, such action shall have the same force and effect as if taken at the time that the resolution for construct-

L. 1918, ch. 486, §§ 1, 2 amended.

Common council authorized to vote on question.

Such action retro-active.

² Words "or material men" new.

³ Words "and material men" new.

¹ Formerly "one-half."

Division of ing said sewer was adopted by said common council, and said expense; council is in that event authorized to pay two-thirds² or a less bond is- council proportion of such expense from the city treasury, or issue bonds therefor, and assess the remainder upon the property owners in sue; assess- such proportion as they may be found to be benefited thereby, ment. pursuant to law and the charter of said city.

§ 3. This act shall take effect immediately.

CHAPTER 473

AN ACT to amend chapter six hundred and forty-six of the laws of nineteen hundred and seventeen, entitled "An act to supplement chapter six hundred and forty-six of the laws of nineteen hundred and five, entitled 'An act to provide for the construction and maintenance of a sanitary trunk sewer and sanitary outlet sewer in the county of Westchester, and to provide means for the payment thereof,' as amended; to fix and determine the area benefited by the trunk sewer and outlet sewer constructed and maintained under the provisions of said act, as amended, and to provide for taxes and assessments within and without such benefited area to pay the cost of constructing, maintaining and operating the said trunk sewer and outlet sewer," in relation to the assessment and collection of that part of the tax of the Bronx valley sanitary sewer district apportioned to and levied against the city of Mount Vernon.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1917, ch.
646, § 2,
subd. (c)
amended.

Section 1. Subdivision (c) of section two of chapter six hundred and forty-six of the laws of nineteen hundred and seventeen, entitled "An act to supplement chapter six hundred and forty-six of the laws of nineteen hundred and five, entitled 'An act to provide for the construction and maintenance of a sanitary trunk sewer and sanitary outlet sewer in the county of Westchester, and to provide means for the payment thereof,' as amended; to fix and determine the area benefited by the trunk sewer and outlet sewer constructed and maintained under the provisions of said act, as amended, and to provide for taxes and assessments within and without such benefited area to pay the cost of constructing, maintaining and operating the said trunk sewer and outlet sewer," is hereby amended to read as follows:

City and
town as-
sessment
rolls.

(c) Contain a separate column for the extension of such Bronx valley sanitary sewer district tax or assessment against all lots or parcels of land or parts of lots or parcels of land within such Bronx valley sanitary sewer district as are shown upon such assessment rolls as subject to the tax provided by this act and as herein provided. Provided, however, that in the city of Mount Vernon there shall be an¹ extension of such tax against all prop-

² Formerly "one-half."

¹ Word "an" substituted for words "a separate column for the."

erty both real and personal appearing on the assessment roll of said city as liable to general taxation and not exempt therefrom.

§ 2. Section eleven of such chapter, as last amended by chapter § 11, as amended by L. 1912, ch. 82, amended. eighty-two of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 11. Forthwith upon the receipt and filing with the supervisor of each town and the city clerk of each city of the certified copy of the resolution of the board of supervisors apportioning the Bronx valley sanitary sewer district tax, the amount of such tax apportioned to such city or town, as the case may be, shall be apportioned and extended in the separate column to be provided in the assessment-rolls for that purpose against the lots or parcels of land in such city or town which shall appear on the assessment-rolls to be within such Bronx valley sanitary sewer district and liable to the taxes therefor as provided in this act. Immediately after such extension and apportionment shall be completed in each of the cities, the mayor and city clerk, and in each of the towns the supervisor, shall execute and deliver to the officer charged by law with the duty of collecting taxes a warrant for the collection of the Bronx valley sanitary sewer district tax. The lien of the Bronx valley sanitary sewer district tax shall attach to the property taxed on the fifteenth day of April in the year nineteen hundred and eighteen and on the first day of April in each year thereafter, and for thirty days after said tax shall have become a lien said tax may be paid without additional charge, percentage or penalty, but to all taxes paid after such thirty days there shall be added interest at the rate of eight per centum per annum computed from the date when such tax shall have become a lien to the date of the sale of the tax lien. The foregoing provisions of this section shall not apply to the city of Mount Vernon.

In the city of Mount Vernon, the part of the tax of the Bronx valley sanitary sewer district apportioned to and levied against said city, as hereinbefore provided, shall not be levied or assessed against the lots or parcels of land situate within such Bronx valley sanitary sewer district, but the amount of the tax so apportioned shall be levied and assessed upon all the property, real and personal, liable to general taxation within said city, and not exempt therefrom, and it shall be the duty of the city clerk of said city of Mount Vernon, forthwith upon the filing of the resolution of the board of supervisors apportioning the amount of the tax for the Bronx valley sanitary sewer district to be levied against the city of Mount Vernon, to extend said tax on the assessment-rolls² against all real and personal property appearing upon the assessment-rolls as liable to general taxation in said city. ³ But such tax need not be extended in a separate column on such roll, but shall be included in the general city tax, pro-

² Words "in the separate column to be provided for that purpose," omitted.

³ Following sentence new.

vided, however, that the rate of said tax per centum of each one hundred dollars of assessment valuation shall be placed on each tax bill.

§ 3. This act shall take effect immediately.

CHAPTER 474

AN ACT to amend the Greater New York charter, in relation to the filling in of land between Beach Channel drive east of One Hundred and Sixteenth street and the bulkhead line of Jamaica bay, and the construction of a bulkhead.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901, ch. 466, § 428, as amended by L. 1921, ch. 612, amended.

Section 1. Section four hundred and twenty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter six hundred and twelve of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

IDEM; POWERS.

§ 428. A local board, subject to the restrictions provided by this act, shall have power in all cases where the cost of the improvement is to be met in whole or in part by assessments upon the property benefited, to initiate proceedings for the following purposes: To construct tunnels and bridges lying wholly within the borough; to acquire title to land for parks and squares, streets, sewers, tunnels and bridges, and approaches, to bridges and tunnels; to open, close, extend, widen, grade, pave, regrade, repave and repair the streets, avenues and public places, and to construct sewers within the district; to flag and reflag, curb or recurb the sidewalks, and to relay crosswalks on such streets and avenues; to set or to reset street lamps; and to provide signs designating the names of the streets.

In any case where the regulating and grading of any street will cause the accumulation of water upon abutting lands, or will cut off the outlet of surface or tide-water upon such lands, which water may become stagnant and a menace to health and in the case of the land adjacent to Beach Channel drive east of One Hundred and Sixteenth street in the fifth ward, borough of Queens, if in the judgment of the board of estimate and apportionment a substantial benefit will result to the owners of adjacent lands either by aiding in their development or by decreasing the cost of the construction of the highway or by insuring the stability of the highway,¹ the local board shall have

¹ Words "and in the case of the land adjacent to Beach Channel drive. . . stability of the highway," new.

power, in initiating proceedings for such regulating and grading, to provide for the filling of such lands to an elevation not to exceed the grade of such street, ²and in the case of the land adjacent to Beach Channel drive east of One Hundred and Sixteenth street in the fifth ward, borough of Queens, it shall have the power in initiating proceedings to recommend that if in the judgment of the board of estimate and apportionment a substantial benefit will result to the owners of adjacent lands either by aiding in their development or by decreasing the cost of the construction of the highway or by insuring the stability of the highway, the board of estimate and apportionment shall provide for the building of a bulkhead along the official bulkhead line of Jamaica bay and the filling in of land between Beach Channel drive east of One Hundred and Sixteenth street and the said bulkhead. All resolutions affecting more than one local improvement district or the borough generally, shall be adopted only at a joint meeting of all the local boards of the borough, and by a majority of the members of said boards. The board of estimate and apportionment may also initiate proceedings for any of the purposes set forth in this section, without the action of any local board.

§ 2. This act shall take effect immediately.

CHAPTER 475

AN ACT to amend the Greater New York charter, in relation to remedies for vacation of assessments, limited.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nine hundred and fifty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter three hundred and twenty of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

L. 1901, ch. 466, § 958, as amended by L. 1919, ch. 320, amended.

REMEDIES FOR VACATION OF ASSESSMENTS LIMITED.

§ 958. No suit or action in the nature of a bill of equity or otherwise shall be commenced for the vacation of any assessment in said city, or to remove a cloud upon title; but owners of property shall be confined to their remedies in such cases to the proceedings under this title. It shall be lawful, however, for the comptroller, acting under the written advice of the corporation

² Remainder of sentence new.

¹ Previously amended by L. 1904, ch. 90.

counsel, to compromise and settle claims for assessments for local improvements heretofore or hereafter confirmed and interest thereon, and payments made in accordance with the terms of such settlements shall be in the nature of accord and satisfaction, and no action shall be maintainable to recover back amounts thus paid. It shall also be lawful for the comptroller, by and with the advice and written consent of the corporation counsel, to cancel in writing and annul any and all void assessments for local improvements heretofore or hereafter confirmed, and to correct, at any time after the confirmation and entry of an assessment for a local improvement, heretofore or hereafter confirmed, any erroneous assessment due to a clerical error, irrespective of whether or not any such assessment has been paid. In the event of a reduction, by reason of a clerical error, of an assessment, after payment, the comptroller is authorized to refund the difference between the amount of the assessment as confirmed and entered and the amount of the assessment as corrected.

§ 2. This act shall take effect immediately.

CHAPTER 476

AN ACT authorizing the board of estimate and apportionment of the city of New York, in its discretion, to take action relative to the cost of proceedings to acquire title to Ninety-fifth (Chichester avenue) street from One Hundred and Eleventh (Greenwood avenue) street to One Hundred and Ninth (Napier avenue) street and from One Hundred and Thirteenth (Cedar avenue) street to One Hundred and Fifteenth (Hamilton avenue) street, in the borough of Queens.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Board of estimate authorized to assume entire cost.

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized and empowered, in its discretion, to assume on behalf of the city of New York the entire cost of the proceedings to acquire title to Ninety-fifth (Chichester avenue) street from One Hundred and Eleventh (Greenwood avenue) street to One Hundred and Ninth (Napier avenue) street and from One Hundred and Thirteenth (Cedar avenue) street to One Hundred and Fifteenth (Hamilton avenue) street, borough of Queens, in said city, including the awards for damages, costs and all other expenses in said proceedings, or of one or more of said proceedings, or such part of such cost as said board may determine.

Refunds authorized.

§ 2. In case the board of estimate and apportionment determine to assume the cost or a part of the cost of such a proceed-

§ Remainder of section new,

ing, the comptroller of the city of New York is hereby authorized and empowered to repay and refund to the parties entitled thereto the sums paid for assessments upon property deemed to be benefited in such proceeding, or such proportion of the sums paid for such assessments as the board of estimate and apportionment shall have determined to assume in behalf of the city; and in case said board determine to assume only a part of such cost, said comptroller is hereby authorized and empowered to receive in full discharge of said assessments such proportion thereof as the board shall not have determined to assume.

§ 3. This act shall take effect immediately.

CHAPTER 477

AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interest in the city of New York," in relation to exempting district attorneys from paying fees to city, county or other officers.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen hundred and five-a of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interest in the city of New York," as added by chapter four hundred and sixty-nine of the laws of nineteen hundred and fourteen, is hereby amended to read as follows:

§ 1505-a. No salaried officer of the city of New York or of the counties of New York, Kings, Queens, Richmond and Bronx, or of any court mentioned in the civil practice act¹ exercising jurisdiction within the limits of the city of New York, and no public officer who is required by law to deposit the fees collected by him or by his office in the city treasury, shall be entitled to receive from the district attorney of any of the counties of New York, Kings, Queens, Richmond and Bronx, any fee for levy, service or return of executions or other mandate or order or² for entering, filing, docketing, registering or recording any paper, record or document required by law to be entered, filed, docketed, registered or recorded in his office, or for furnishing to the district attorney of the county of New York a certified

L. 1882, ch. 410, § 1505a, as added by L. 1914, ch. 469, amended.

City and county officers not to receive fees from district attorneys.

¹ Words "civil practice act" substituted for words "code of civil procedure."

² Words "for levy, service or return of executions or other mandate or order or," new.

or exemplified copy or transcript, or extract from any paper, writing, document or record on file or recorded in his office, and every such officer must, upon application therefor, furnish to the district attorney of any of the counties of New York, Kings, Queens, Richmond and Bronx, a certified or exemplified copy of, or extract from, or transcript of any writing, paper, record or document on file or recorded in his office, or of the return upon an execution, mandate or order,³ without the payment of any fee or charge whatsoever therefor.

§ 2. This act shall take effect immediately.

CHAPTER 478

AN ACT to amend the inferior criminal courts act of the city of New York, in relation to misdemeanors triable by a court of special sessions.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subds. 1,
m added to
L. 1910, ch.
459, § 43.

Section 1. Section forty-three of chapter six hundred and fifty-nine of the laws of nineteen hundred and ten, entitled "An act in relation to the inferior courts of criminal jurisdiction in the city of New York, defining their powers and jurisdiction and providing for their officers," as added by chapter five hundred and thirty-one of the laws of nineteen hundred and fifteen, is hereby amended by adding thereto two new subdivisions, to be subdivisions l and m, to read as follows:

l. Any violation of the provisions of the workmen's compensation law.

m. Any violation of article twenty-five-b of the general business law.

§ 2. This act shall take effect immediately.

³ Words "or of the return upon an execution, mandate or order," new.

CHAPTER 479

AN ACT to authorize the local assessment of certain barge canal and terminal lands of the state in the city of North Tonawanda, for the benefit thereto from the paving of Sweeney street in such city.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Lands of the state held for barge canal and terminal purposes abutting the south side of Sweeney street between Main street and Webster street, in the city of North Tonawanda, may be assessed in the manner provided in the charter of such city, being chapter seven hundred and fifty-two of the laws of nineteen hundred and seven and acts amendatory and supplemental thereto, for the pavement of the above described portion of Sweeney street, in such city, for the benefit derived by such lands from such an improvement. Written notice of the completion by the proper city authorities of any proposed assessment for such pavement, including sewers and water connections if any, stating the proposed assessment upon such lands of the state, shall be served by mail on the state comptroller. Such notice shall specify the time and place at which objections to the assessment will be heard. A copy of the notice enclosed in a securely sealed postpaid wrapper addressed to state comptroller, Albany, New York, shall be deposited in the post office in the city of North Tonawanda on two successive days, each at least fourteen days prior to the date fixed for the hearing of objections to such proposed assessment. The comptroller, on behalf of the state may object to any such assessment for the same reasons as owners of property assessed in such proceeding may object thereto; but neither the comptroller nor the state may object thereto for the reason that such canal and terminal lands are owned and held by the state for a public purpose.

§ 2. No fee, interest, penalty or expense shall be added to or accrue on any such assessment against such state lands, nor shall such state lands be subject to a lien or be sold for the non-payment of any such assessment; but such assessment against such state lands as shall be included in the confirmed assessment in a proceeding under such charter for the paving of such portion of Sweeney street in such city shall be audited by the comptroller and paid by the state treasurer on the warrant of the comptroller out of any moneys appropriated therefor.

§ 3. This act shall take effect immediately.

Assessment authorized.

Notice of assessment.

Objections to assessment.

Fees, etc.; lien.

Audit and payment.

CHAPTER 480

AN ACT authorizing the city of Oneonta to abate the floods in Silver, Oneonta and Glenwood creeks, and to wall, bottom and cover the channels of any or all of said creeks for any part of their courses within said city, and to authorize said city to acquire lands therefor by purchase, gift or condemnation, and to raise moneys by general and local taxation to pay the costs thereof.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Periodical
overflows
declared
public
nuisance.

City au-
thorized to
abate;
plans; ma-
terial.

Grade,
plans and
specifica-
tions.

Notice of
final de-
termination.

Hearing.

Notice to
owners to
perform
work.

Section 1. The frequent periodical overflows of Silver creek, Oneonta creek and Glenwood creek, whereby the public streets of Oneonta are covered with silt, gravel and debris, the public streets and bridges damaged and property along their courses destroyed, the obstruction within the channels thereof, and the polluted waters therein, containing decayed and decaying matter, are hereby declared to be public nuisances and the city of Oneonta by its board of public works is hereby authorized and empowered to abate said nuisances. The board of public works is authorized and empowered to cause to be prepared plans and specifications, including grade or grades, for top, side walls and bottom, together with all necessary or proper appurtenances therefor for the channel of said creeks or for any portion of either. That said proposed construction shall be of such material or materials as said board may deem advisable.

§ 2. The board of public works of said city may adopt said grade, plans and specifications in whole or in part and may by resolution decide that a top, side walls, bottom or any of them, together with all proper or necessary appurtenances thereto, ought to be constructed along the whole or any portion of said creeks or either of them, within the city limits. A copy of such plans and specifications, including the adopted grade, shall be thereupon filed in the office of the city clerk. Thereafter the board shall publish once each week for at least two successive weeks in the official newspaper of said city, a notice that at a time and place therein specified, it will meet to make a final determination thereof. Such notice shall contain a brief description of the character, location, and extent of such proposed construction. At such meeting of said board, any person interested shall be entitled to be heard for or against said work.

§ 3. If the board shall finally determine that the construction provided for in the plans and specifications, or any of it, shall be done, it shall by written notice direct the owners of property through or upon which the stream, streams, or portion thereof, proposed to be walled, covered or bottomed, flow to perform said work. Such notice shall be served personally upon the owner or

owners of said premises, or by publishing in the official newspaper of said city twice each week for two consecutive weeks and duly mailing a copy of said notice to each of said owners at his last known postoffice address on or before the first publication. Said notice shall describe briefly the work to be done and direct that the same be done in accordance with the plans and specifications therefor on file in the office of the city clerk, within a period of thirty days. If said property owners or any of them fail or neglect to perform said work within a period of thirty days from the date of the service or mailing of said notice, the board of public works may enter upon the premises of any of such person or persons and do and perform said work without being liable therefor, for trespass or otherwise. In the event said work is done by the city, however, one-third of the expense thereof shall be borne by the city at large and two-thirds shall be borne by the property owners. The charge against each property owner shall be based upon the cost of the work done and materials furnished for the construction on his premises, together with a proportionate share of all other expenses incident to the work. The construction then in place may be utilized if it conforms to the plans and specifications adopted, as heretofore provided, or if its use is approved by the city engineer, or the board of public works.

Failure of owners.

Apportionment of expense.

Utilization of construction in place.

§ 4. The board of public works may perform said work by public letting or may with the consent of the common council do said work and buy all necessary materials therefor without public letting. Such work may be done in sections and parts of said work may be done at different times, as the board of public works shall deem most advantageous.

Work how done.

§ 5. The city of Oneonta shall have the power and is hereby authorized to construct dams, silt basins and such other constructions and appurtenances as it may deem necessary to abate said nuisances and shall have power to acquire, by purchase, gift, or condemnation, either the fee or such right, title, interest or easement in such lands as the board of public works shall deem necessary for any of the purposes incident or requisite to carrying out the purposes of this act.

Power of city as to construction and acquisition of lands.

§ 6. When said work, or any section thereof is completed the board of public works shall ascertain the whole cost and expense of the portion to be borne by the city at large, including the cost of obtaining lands or any interest therein for said work, the one-third to be borne by the city at large as provided by section three of this act, and all other charges or expense of every character, if any, to be borne by the city at large. It shall apportion upon the real estate upon which said work is done, the proportion to be borne by each parcel. The board of public works shall then report such apportionment including the amount to be borne by the city at large, a list of all the lots and parcels of land and the amount of the assessment for which each parcel is liable, to the common council.

Ascertainment and apportionment of expense.

Assessment of lands benefited.

Notice.

Hearing.

Corrections and confirmation of assessment roll.

Lien of assessments.

Payment of assessments; levy and collection.

§ 7. The common council shall thereupon make an assessment of the amount so fixed against the said owners and occupants and upon the several parcels of land deemed to be benefited thereby as herein provided, assessing each parcel as near as may be in proportion to the benefit which the owner of each parcel of property may be deemed to receive therefrom and shall thereupon cause a notice to be published in the official newspapers of said city, that the assessment roll therefor has been filed with the city clerk and that the common council will on a certain day and place to be therein specified, which shall not be less than ten days from the first publication of said notice, proceed to confirm said assessment. At the time and place named in said notice or at any other time or place to which the common council may from time to time adjourn said hearing, any person interested may appear before the common council and apply to have said special assessment roll altered or corrected as he may deem just.

After hearing all such applications the common council may proceed to make such alterations and corrections in said special assessment roll as it may deem just, and by resolution confirm the same; the said assessments shall thereupon be and become final and conclusive upon all parties interested, both as to the regularity and validity of the proceedings, and of each and every part thereof, and as to the validity of each and every assessment thereunder, and as to the respective amount thereof. The owner or owners of, or persons interested in, any lot or parcel of land locally assessed, as hereinbefore provided, may pay and cancel such local assessment at any time within thirty days after such final assessment and confirmation thereof. If such owner or owners or persons interested in any lot or parcel of land so locally assessed shall neglect or omit to pay such local assessments within said period of thirty days above specified, then and in such case such local assessments so remaining unpaid shall be continued and remain a lien or liens respectively on the respective several pieces or parcels of land of the several and respective owners thereof, until the same shall with interest thereon be paid as hereinafter provided.

§ 8. Such local assessments shall become due and payable in five equal annual payments, as follows: One-fifth part thereof, with one year's interest at six per centum per annum upon the whole amount unpaid of said local assessments, annually for each year thereafter until paid, and which local assessments with interest thereon as above provided shall be by the common council of said city added annually to the next city assessments upon said property so assessed respectively and levied and collected in the ordinary way of levying and collecting taxes in said city, with the same liability thereon by said owners respectively, for interest and penalties thereon if not paid at maturity, as is provided by the charter of said city with respect to its other taxes, tax liens and assessments, and including all the rights, remedies and practice provided by title eleven of the charter of the city of Oneonta. Such assessment may be paid at any time prior to maturity.

§ 9. To provide funds for the payments of such portion of the cost and expense of such work or any section thereof as are to be borne by the city at large, including lands, dams and all other items hereinbefore specified, said common council may, when the work or any section thereof is completed, issue bonds or certificates of indebtedness of said city which shall be for the term not to exceed ten years and bear interest at a rate not to exceed six per centum per annum and shall be for such amounts and upon such terms as may be determined by said common council, but all of said bonds or certificates of indebtedness shall become due and payable not less than ten per centum of the whole amount thereof annually. Such bonds or certificates of indebtedness when issued shall be binding upon said city, and shall contain a recital that they are issued pursuant to the provisions of this act, and such recital shall be conclusive evidence in any court of the validity thereof and the regularity of their issue. Each of said bonds or certificates of indebtedness shall be signed by the mayor and countersigned by the clerk of said city, and they may be issued, in the discretion of said common council, directly to pay for the work provided for by this act, but if not so used they shall be delivered, when issued, immediately to the chamberlain of said city, and be by him sold at public or private sale, but not for less than par and accrued interest, and the proceeds thereof shall be used to pay the costs and expenses of such work or to repay the money borrowed therefor with interest, or both.

Issue of bonds or certificates of indebtedness for city's share.

To rectify this act; effect.

Bonds; execution, disposition.

§ 10. To provide funds for the payment of the cost and expenses of such improvements, as are to be assessed locally upon the parcels upon or along which said work is performed, said common council may issue short term bonds or certificates of indebtedness therefor or for any part thereof, or at its discretion may make temporary loans therefor. Said short term bonds shall become due and payable at such times and in such amounts as such unpaid local assessments shall become due and payable, as near as may be. They shall bear interest at not to exceed six per centum per annum and shall have the same force and validity and contain the same recitals and shall be disposed of in the same manner and with the same restrictions and conditions as the bonds or certificates of indebtedness hereinbefore provided for.

Issue of short term bonds, etc., for share of cost locally assessed.

§ 11. If the amount to be borne by the city at large as hereinbefore provided, together with other annual city taxes, be not in excess of one and a half per centum of the assessed valuation of the real and personal property of the city, the common council may cause the said amount to be borne by the city at large, to be assessed, levied and raised with and in addition to other taxes in and upon the next tax and assessment roll.

Tax for city's share.

§ 12. The city of Oneonta is hereby authorized and empowered to enter into an agreement with any person, firm or corporation whereby such person, firm or corporation agrees to assume a share of the cost and expense of the work which the city assumes under this act.

Assumption of cost by persons, etc.

Application
of charter.

§ 13. The charter of the city of Oneonta and all acts supplemental and amendatory thereto shall be applicable in so far as it or any portion thereof may be necessary to the carrying on of the work or improvement authorized by this act, the levying of assessments and the collection of the costs of said work or improvement, the making of temporary loans, the collection of taxes for the payment of bonds provided for herein and the carrying out of any other provision of this act.

§ 14. This act shall take effect immediately.

CHAPTER 481

AN ACT to amend the public buildings law, in relation to the powers of the trustees of the New York State Soldiers' and Sailors' Home.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch.
48, § 61
amended.

Section 1. Section sixty-one of chapter forty-eight of the laws of nineteen hundred and nine, entitled "An act relating to public buildings, constituting chapter forty-four of the consolidated laws," is hereby amended to read as follows:

§ 61. **Powers of trustees.** The board of trustees shall have possession of all property belonging to or constituting such home and may complete the buildings therein already commenced or hereafter to be erected, and keep them in readiness for occupation, with any funds appropriated therefor or that may come into their hands for such purpose, and may pay any existing indebtedness of such corporation which shall be or might become a lien upon such property or any part thereof. The board may make contracts in its name, subject to the approval of the comptroller, for work and materials for the completion of the buildings on such property, the furnishing thereof and of supplies for use and consumption therein, but shall spend no money and incur no indebtedness for such purpose beyond the appropriation previously made therefor by the legislature.

¹ The board may also take and receive any gift, devise or bequest which may be made, or has heretofore been made, to said New York State Soldiers' and Sailors' Home, whether by such name or otherwise, and which is designed to be for the use and benefit of the members thereof, and may hold, invest, manage and disburse the same, and any income derived therefrom, according to the tenor of such gift, devise or bequest, and in accordance with the spirit and purpose of the donor thereof; but if such gift, devise or bequest be made unconditionally or without the expression by the donor of a specific purpose, then the board may hold,

¹ Following paragraph new.

invest and manage the same and disburse the income derived therefrom in such manner and for such purposes as the board may determine, subject to the approval of the comptroller.

It may adopt rules and regulations, subject to like approval, specifying the duties of the officers of the home, the government of its inmates, fixing the terms and conditions of admission thereto and the cause and manner of expulsion therefrom. The board may require and take in its name any security by way of bond or otherwise from any person appointed or elected by it, for the faithful performance of his duties, and for truly accounting for all moneys or property received by him, for or on account of the board of trustees or in the performance of such duties. And the said board shall have power to organize and maintain a band, the same to be paid for out of the maintenance funds of the home, not exceeding six thousand dollars per annum.

§ 2. This act shall take effect immediately.

CHAPTER 482

AN ACT to amend the public service commission law, in relation to the transportation of passengers.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-four of chapter four hundred and eighty of the laws of nineteen hundred and ten, entitled "An act in relation to the public service commission and the transit commission, constituting chapter forty-eight of the consolidated laws," such title having been so amended by chapter one hundred and thirty-four of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1910, ch
480, § 34
amended.

§ 34. **False billing, et cetera, by carrier or shipper.** No common carrier or any officer or agent thereof or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any passenger or property between points within this state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of this chapter, by means of false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. No person, corporation or any officer, agent or employee of a corporation, who shall deliver property for transportation within the state to a common carrier, shall seek to obtain such transportation for such property at less than the rates then established and in force therefor, as aforesaid, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents of a package, or false report or state-

ment of weight, or by any other device or means, whether with or without the consent or connivance of the common carrier, or any of its officers, agents or employees. ¹ No person shall obtain transportation for himself, herself, or others or shall avail himself, herself or others of any means of transportation at rates other than or different from those prescribed in the schedules of rates filed and published, or in violation of the conditions attached to any reduced rate ticket, provided such conditions are contained in the filed and published schedules. Nothing in this section shall be deemed to limit, modify or change the provisions of section thirty-three and section thirty-three-a of the public service commission law.

§ 2. This act shall take effect immediately.

CHAPTER 483

AN ACT to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," in relation to the city court of such city.^{1a}

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1907, ch. 755, § 466, as amended by L. 1921, ch. 526, amended.

Section 1. Section four hundred and sixty-six of chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, as last amended by chapter five hundred and twenty-five of the laws of nineteen hundred and twenty-one² is hereby amended to read as follows:

General provisions.

§ 466. The court of criminal jurisdiction known as the police court, and the court of civil jurisdiction known as the municipal court, of the city of Rochester, as they existed on the first day of January, nineteen hundred and eighteen, are hereby continued, consolidated and reorganized under the name of the "City Court of Rochester" with criminal and civil jurisdiction and powers hereinafter set forth. The police justice of the city of Rochester and the judges of the municipal court of the city of Rochester in office when this act takes effect shall continue to hold office until the expiration of their respective terms, under the title of judges of the city court. An attorney, admitted to practice as such in the courts of the state of New York, duly appearing for a party in the civil branch of the city court, may enter into a stipulation on behalf of such party, and he may execute a satis-

¹ Remainder of section new.

^{1a} The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Section 466 as added by L. 1918, ch. 495.

faction-piece of any judgment rendered in such court in favor of such party, either before or after the filing of a transcript thereof in Monroe county clerk's office, in the same manner and with the same effect that an attorney of record might execute such satisfaction-piece pursuant to section five hundred and thirty of the civil practice act.

§ 2. Subdivisions one, four, eight, twelve and thirteen of section four hundred and eighty-eight, subdivision (c) of section four hundred and eighty-nine, sections four hundred and ninety-two, four hundred and ninety-three, four hundred and ninety-four, four hundred and ninety-five, four hundred and ninety-six, four hundred and ninety-seven, four hundred and ninety-eight, four hundred and ninety-nine, five hundred and five, five hundred and seven, five hundred and nine, five hundred and eleven, paragraph (a) of section five hundred and twelve, section five hundred and thirteen, subdivision five of section five hundred and sixteen, sections five hundred and seventeen, five hundred and eighteen and five hundred and nineteen of such chapter, as added by chapter four hundred and ninety-five of the laws of nineteen hundred and eighteen, are hereby amended to read, respectively, as follows:

1. All civil actions and proceedings cognizable by law by justices of the peace or justices' courts as set forth in and prescribed by the justice court act. § 488, subds. 1, 4, 8, 12, 13; § 489, subd. (c); §§ 492-499, 506, 507, 509, 511; § 512, (a); § 513; § 516, subd. 5; §§ 517-519, as added by L. 1918, ch. 495, amended.

4. An action upon a judgment for a sum of money rendered in a court of record or not of record of the state of New York, including an order of a court or judge directing the payment of a sum of money, where the sum claimed does not exceed two thousand dollars, exclusive of costs. The right to bring an action upon a judgment for a sum of money rendered in a court of record is regulated by the provisions of section four hundred and eighty-four of the civil practice act. An action cannot be brought in the city court upon a judgment rendered by the city court or by the former municipal court, for a sum less than twenty-five dollars, exclusive of costs, until three years have elapsed since the rendition and docketing of the judgment.

8. An action on a surety bond or undertaking taken by any court of record or not of record of the state of New York, or judge or justice thereof, where the sum claimed does not exceed two thousand dollars, exclusive of costs. The right to bring an action upon such surety bond or undertaking is subject to the regulations and conditions prescribed by the civil practice act or otherwise by law.

12. An action against an executor or administrator, as such, within the time fixed by law, where the amount of the claim does not exceed two thousand dollars, exclusive of interest, and the claim has been duly presented to, and rejected by, said executors or administrators. Costs shall not be awarded against an executor or administrator except as provided in sections one thousand four hundred and ninety-nine of the civil practice act.

13. An action to recover damages for an escape from jail lib-

erties, as provided by the prison law, where the sum claimed does not exceed two thousand dollars.

(c) **Jury term, civil branch; trial jurors.** Trial jurors for the civil branch shall have the same qualifications, and shall be selected and drawn by the same authorities and in the same manner as trial jurors of the county court held in the county of Monroe; and all provisions of the judiciary law and the civil practice act as they may be amended from time to time, except such as are inconsistent with this act, are hereby made to apply to this court and to trial jurors therein. At least ten days before the opening of any jury term the number of trial jurors to be drawn for such term shall be fixed by the board of judges, and due notice thereof shall forthwith be transmitted to the clerk. Each juror shall be paid two dollars for each and every day or portion thereof that he actually serves upon a jury, and each person summoned to attend as a jurymen shall be paid two dollars for each day that he attends, unless he is excused at his own request, such payment to be made only upon certificate of the judge presiding, of the number of days served and the amount due each juror, and shall be paid by the city treasurer out of the funds of the court appropriated for that purpose, subject to audit by the comptroller.

§ 492. Summary proceedings. The judges of the city court have, and each of them has, jurisdiction in summary proceedings to recover the possession of real property under article eighty-three of the civil practice act, and of the labor law, and power to issue process and perform all other necessary functions and duties, to exercise and make effective such jurisdiction; and the provisions of said title and said labor law apply to a summary proceeding commenced before a judge of the city court.

§ 493. Process in civil branch. All process issued by the court or a judge thereof must be made returnable before the court unless otherwise provided herein, and may be signed by a judge, clerk, or deputy clerk of the court, and may be executed and served within the city of Rochester by any constable of the city or by the sheriff of Monroe county or his deputies; except that a subpoena and process to enforce obedience thereto may be served within the county of Monroe. A summons issued upon a verified complaint in an action on contract, and the verified complaint may be served at the same time by delivering to and leaving with the defendant personally copies thereof, and may be served by any person of full age not a party to the action. The proof of service thereof if served by a constable may be made by his certificate and must be made by affidavit if served by any other person. Affidavits and certificates of service must state the time and place of service.

§ 494. Arrest, attachment and replevin. The court has power to grant and issue orders of arrest, warrants of attachment and requisitions in replevin in the same cases and in the same manner as specified in the justice court act, except that the sum claimed

may be two thousand dollars or under, exclusive of costs; and the provisions of that act apply to all proceedings thereon so far as the same are consistent herewith. The clerk of the civil branch of the court is authorized and empowered to grant and issue warrants of attachments and requisitions in replevin and approve bonds therein in the absence from the court of all of the judges.

§ 495. **Pleadings.** The pleadings are:

1. Plaintiff's complaint.
2. Defendant's answer.
3. The defendant's demurrer to the complaint or to one or more distinct causes of action separately stated therein.
4. Plaintiff's demurrer to one or more counterclaims stated in the answer.

Pleadings must be written, unless the court permit them to be oral; if oral, the substance thereof must be entered in the docket of the court; if in writing, they must be filed and a reference to them made in the docket.

Where the complaint, whether served with the summons, or filed and served after the service of summons, is verified, all subsequent pleadings, including a bill of particulars, shall be verified.

§ 496. **Complaint.** The complaint must contain:

1. The names of all the parties to the action, plaintiff and defendant.
2. A clear, precise and unequivocal statement of the facts constituting each cause of action.
3. A demand of the judgment to which the plaintiff supposes himself entitled.

At the time of the issuing of the summons plaintiff may file with the clerk of the court a written complaint subscribed by the plaintiff or an attorney admitted to practice as such in the courts of the state of New York, and verified in the manner prescribed by the civil practice act in respect to pleadings in courts of record.

§ 497. **Answer.** The answer of the defendant must contain:

1. A general or specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief.
2. A clear, precise and unequivocal statement of any new matter constituting a defense or counterclaim. A counterclaim exceeding in amount the jurisdiction of the court may be set up, and if established must be set off against the plaintiff's demand as established and judgment given for the balance, the whole of such set-off and judgment not to exceed the jurisdiction of the court; the judgment in such case must state whether it is for the whole or what part of such counterclaim, and the party interposing the same is not estopped from bringing a separate action for the balance thereof. An answer to a verified complaint must be in writing and subscribed by the defendant or an attorney admitted to practice as such in the courts of the state of New York,

and verified in the manner prescribed by the civil practice act in respect to pleadings in courts of record.

§ 498. **Question of title to real property.** The court has not jurisdiction in an action in which the title to real property comes in question; and the provisions of article eight of the justice court act apply to actions in which it is claimed or appears that the title to real property comes in question.

§ 499. **Demurrer.** The demurrer to the complaint, or to one or more distinct and separate causes of action therein, may be upon one or more of the following objections thereto appearing upon the face thereof:

First: That the court has not jurisdiction of the person of the defendant.

Second: That the court has not jurisdiction of the subject of the action.

Third: That the plaintiff has not legal capacity to sue.

Fourth: That there is another action pending between the same parties for the same cause.

Fifth: That there is a misjoinder of parties plaintiff.

Sixth: That there is a defect of the parties plaintiff or defendant.

Seventh: That the causes of action have been improperly united.

Eighth: That the complaint does not set forth facts sufficient to constitute a cause of action, or that the complaint or cause of action is not sufficiently explicit to be understood.

If the demurrer is to the counterclaim it may be made upon any of the objections above set forth as applying to a complaint. If the court deems the demurrer well founded, it must permit the pleading to be amended, and if the party fails to amend the defective pleading or part of the pleading demurred to must be disregarded. If the court deems the demurrer not well founded, it must permit the party making it to plead over at his election.

§ 505. **Adjournment.** At the time of the return of the summons, or of the joinder of issue without process, the court must upon application of the plaintiff adjourn the trial of the action, but for not more than eight days against the defendant's objection; but the court may refuse to grant such adjournment unless plaintiff or his attorney, if requested by defendant, makes oath that the plaintiff cannot, for want of some material testimony or witness specified by him, safely proceed to trial. At the time of the joinder of issue the court must upon the application of the defendant adjourn the trial of the action not more than eight days, upon the defendant or his attorney making oath that he verily believes that the defendant has a good defense to the action and that he cannot safely proceed to trial for want of some material testimony or witness specified by him, and unless the defendant has been arrested in the action or the action is to recover a chattel, upon the defendant giving the plaintiff an undertaking in an

amount fixed by the court not exceeding five hundred dollars, and in the form and to the effect prescribed in section one hundred eighty-three of the justice court act. The court may in its discretion from time to time upon its own motion or that of either of the parties, or on plaintiff's motion, where defendant has been duly served with a summons, with or without verified complaint, and makes default in appearance or pleading on the return day, or default in appearance on any adjourned day, adjourn the trial of the cause, and may, as a condition to adjournment, require either party to give such security as it deems desirable, or may impose costs or other conditions. The power to grant adjournments in summary proceedings to recover the possession of real property is governed by the provisions of article eighty-three of the civil practice act relating to such proceedings.

§ 507. **Commission.** The court may award and issue a commission to take the testimony of a material witness not within the county of Monroe, as and in the manner provided in article ten of the justice court act; and the provisions thereof, except as modified by this act, apply to the issuance, execution, return and effect thereof.

§ 509. **Confession of judgment.** The city court has jurisdiction to render judgment upon the confession of a defendant as prescribed in article twelve of the justice court act, where the sum confessed does not exceed two thousand dollars, exclusive of costs; and the provisions of said article apply thereto.

§ 511. **Proceedings on default.** When a defendant makes default in appearing or pleading upon the return of a summons served without a verified complaint, or with a verified complaint in any action other than on a contract, the court must hear the allegations and proof of the plaintiff and render judgment according to law and justice. When a verified complaint in an action on a contract, has been served with the summons, if the defendant fail to file a verified answer thereto he is deemed to have admitted the allegations of the complaint, and the court, upon the filing of the summons and complaint with proof of due service thereof, must upon demand enter judgment for the plaintiff for the amount demanded in the complaint with costs and disbursements, without further proof.

(a) **Opening defaults.** The city court has power to open defaults, set aside judgment rendered on defaults and entered therein and executions thereon, before a transcript has been filed in the Monroe county clerk's office, and the judges thereof have power to vacate orders made on default and all process issued thereon or thereunder, on such terms as may be just, provided it is shown that manifest injustice has been done and the moving party satisfactorily excuses his default; but no greater terms must be imposed than the payment of the costs included in the judgment or order and the sum of seven dollars costs of the motion. The application therefor must be founded upon affidavits and must be made with due diligence and in no event more than

one year after the entry of judgment or order, but the court may hear evidence concerning the matters specified in the affidavits upon the hearing of the motion. Upon presentation of such application the city court must issue an order under the hand of one of the judges or of the clerk, returnable in not less than five nor more than eight days, requiring the adverse party to show cause why said judgment or order should not be set aside. A copy of the order and the papers upon which it is granted must be served upon the adverse party or his attorney, if he has appeared by attorney, not less than three days prior to the return thereof.

§ 513. **Transcript of judgment.** The clerk, on the application of the party in whose favor the judgment was rendered, and payment of the fees therefor, must deliver to him a transcript of the judgment. The county clerk of Monroe county must, upon presentation of the transcript and payment of the fee therefor, if within six years after the rendering thereof, endorse thereupon the date of its receipt, file it in his office, and docket the judgment as of the time of the receipt of the transcript, in the book kept by him for that purpose. Thenceforth the judgment is deemed and becomes a judgment of the county court of Monroe county and may be satisfied and must be enforced accordingly, except that an execution can be issued thereupon only by the county clerk as prescribed in the civil practice act, and that the judgment is not a lien upon and cannot be enforced against real property unless it is for twenty-five dollars or more, exclusive of costs.

5. A party recovering costs in an action or proceeding, in whose behalf a commission has been issued, and who introduces in evidence a deposition taken thereupon, is entitled to recover his actual disbursements thereupon, now provided for by section three hundred thirty-eight of the justice court act, except that the commissioner's fee for taking and returning testimony shall be allowed at his actual disbursement therefor, but not to exceed the sum of ten dollars.

§ 517. **Security for costs where plaintiff is a non-resident or a foreign corporation.** The defendant in an action brought in city court may require security for costs to be given where the plaintiff is a non-resident of the state, or a foreign corporation. A written demand requiring such security shall be served upon the plaintiff and filed with the court. The plaintiff shall, within five days thereafter, either deposit with the court the sum of two hundred and fifty dollars, to be applied to the payment of the costs, if any, awarded against him, or file with the court an undertaking, executed to the defendant by one or more sureties, approved by a judge of the court, to the effect that they will pay, upon demand, to the defendant, all costs which may be awarded to him in the action, not exceeding a sum specified in the undertaking, which must be at least two hundred and fifty dollars. The plaintiff must also serve upon the defendant a notice that such undertaking has been filed. Within five days after service of the notice of the

filing of the undertaking, the defendant may serve upon the plaintiff, or his attorney, a notice that he excepts to the sureties therein. Within five days after service of such a notice, the plaintiff must serve upon the defendant, or his attorney, a notice of the justification of the same or new sureties before the judge, at a specified time and place, not less than five days nor more than ten days, thereafter. If the judge finds the sureties sufficient, he must annex the written examination, if any, to the undertaking, and indorse his allowance thereon. Where the defendant fails duly to except to the sureties, the undertaking is deemed allowed and must be indorsed in like manner.

§ 518. **Clerks and stenographers in civil branch.** The judges may appoint to hold office during their pleasure a clerk, such number of deputy clerks and deputy clerks designated as stenographers, and such other subordinates as may be prescribed by the board of estimate and apportionment. It is the duty of the clerk to keep the docket of the court, of all proceedings in any action or proceeding brought in the court or before a judge thereof, and to enter in the docket the judgments, orders and decisions of the court and the judges thereof; and the docket shall be evidence in the courts of this state to the same extent as the docket of a justice of the peace. It is the duty of the deputy clerks designated as stenographers to take stenographic minutes of the testimony and other proceedings in all cases tried before the court, or a judge thereof, except when the judge presiding directs otherwise. They must transcribe fully and at length the minutes of each case taken, when directed by the court or judge, and file the same with the clerk, who must cause the same to be preserved with the other papers in the case. The stenographic minutes taken by the deputy clerks designated as stenographers must be preserved and filed in the office of the clerk of the court, and they must furnish to any one applying therefor a transcript of such minutes, for which a charge must be made of three cents for each folio of one hundred words contained therein, unless otherwise agreed upon, to be paid to the deputy clerks for their own use. It is also the duty of the clerk and the deputy clerks to make and file in the Monroe county clerk's office all returns on appeal in cases in which the minutes of testimony are taken by the deputy clerks designated as stenographers; such return to be made in type or ordinary writing and certified by the judge who tries the case. It is also the duty of the clerk to call all cases on the return day and hour and note appearances and defaults, and to enter judgments and orders by default in case of default in actions where verified complaints or verified petitions have been served, and to enter judgments and orders of dismissal of actions or proceedings in case of default by the plaintiff or petitioner; and the clerk has power to administer any oath required by law or rules of the court, necessary to the entry of such judgments or orders; and the clerk has power to adjourn any action or proceeding when the parties consent to such adjournment, and in the absence of the

judges to adjourn any action or proceeding for a period of not more than five days. The powers and duties conferred and imposed upon the clerk may be performed by the deputy clerks and deputy clerks designated as stenographers. The judges, clerk, deputy clerks, and deputy clerks designated as stenographers, have power to administer oaths and take acknowledgements the same as justices of the peace of towns.

§ 519. **Payment and account of fees.** There shall be paid to the clerk of the court the following fees:

In an action or a special proceeding brought in the city court:

For a summons, twenty-five cents.

For a summons and filing a verified complaint, thirty cents.

For an order of arrest, twenty-five cents.

For a subpoena, including all the names inserted therein, twenty-five cents.

For an adjournment, except where it is made upon the motion of the court or judge, twenty-five cents.

For an affidavit or administering an oath, ten cents.

For the drawing of an affidavit, application or notice, required by statute, five cents per folio.

For drawing a bond or an undertaking, twenty-five cents.

For hearing an application for a commission to examine one or more witnesses, fifty cents.

For an order for such a commission, and attending, settling and certifying interrogatories, fifty cents.

For hearing an application to discharge a defendant from arrest, or to vacate or modify a warrant of attachment, or increase the defendant's security thereupon, fifty cents.

For hearing the plaintiff's evidence, where the defendant does not appear, twenty-five cents.

For the trial of a demurrer, twenty-five cents.

For the trial of an issue of fact, where the defendant appears, seventy-five cents.

For receiving and entering a verdict of a jury, twenty-five cents.

For entering judgment, twenty-five cents.

For filing each paper required by statute to be filed, five cents.

For a transcript of a judgment, twenty-five cents.

For a copy of any paper for which a fee is not expressly prescribed by law, five cents per folio.

For an execution, or the renewal of an execution, twenty-five cents.

For making a return upon appeal from a judgment, two dollars.

For a warrant, in a case where a fee therefor is not expressly prescribed by law, twenty-five cents.

For a warrant for the apprehension of a person charged with being the father of a bastard, fifty cents; for indorsing a warrant issued from another county, twenty-five cents.

For a precept or other mandate, whereby a special proceeding is commenced, in a case where a fee therefor is not specifically prescribed by law, twenty-five cents.

For drawing, signing, and depositing with the clerk, a minute or record of conviction of such a juror or witness, or of any person for contempt, in any case where a fee therefor is not specially prescribed by law, fifty cents.

For an execution upon such a conviction before him, twenty-five cents.

For drawing, copying, and certifying a bond, an undertaking, a recognizance or other written security, and filing the same with the county clerk, or other officer with whom it must be filed, twenty-five cents.

For a warrant for commitment for any cause, twenty-five cents.

For taking the deposition of a witness, upon an order made, or commission issued, by a court of record of the state, or a court in another state or a territory, or a foreign country, ten cents for each folio.

And in addition thereto the following amounts:

For any service for which a fee is not allowed by this section, and for which, if rendered in an action or a special proceeding before a justice of the peace, a fee would be allowed to him therefor, the fee to be collected by the clerk of the court shall be for the same amount as allowed to the justice for the same service.

The clerk must demand and receive prepayment of all fees for process, making out and filing bonds, undertakings and affidavits, together with such fees for trial, judgment and other matters as are allowed by this act; also fees for jurors as herein provided, when a jury trial is demanded, and in addition thereto such other fees as are allowed by this act; and he must keep an accurate account of all moneys paid into court or received by him or the deputy clerks, and a daily itemized account of the same, and at the end of each week must deposit with the treasurer of the city all fees and moneys received, together with a statement thereof verified by him to be a true and correct account of all the moneys paid into court or received by him or the deputy clerks during the period covered by the statement.

§ 3. Section five hundred and twenty-one of such chapter as last amended by chapter five hundred and twenty-five of the laws of nineteen hundred and twenty-one³ is hereby amended to read as follows: § 531, as amended by L. 1921, ch. 526, amended.

§ 521. Provisions of law generally applicable. The provisions of chapter nineteen, title five, of chapter twenty of the former code of civil procedure, excluding section three thousand and sixty-three of chapter nineteen, and excluding article three of title eight of chapter nineteen, and excluding titles ten and eleven of chapter nineteen, and all acts amendatory or in substitution thereof or supplementary thereto, including the justice

³ Section 521 as added by L. 1918, ch. 495.

court act, apply to the city court and the judges thereof except so far as they are inconsistent with this act. For the purpose of applying the same, the court is deemed a justice's court; each judge thereof is deemed a justice of the peace; and the city of Rochester is deemed a town of Monroe county.

§ 522, as
added by
L. 1920, ch.
434, and re-
numbered
and
amended by
L. 1921,
ch. 525,
amended.

§ 4. Section five hundred and twenty-two of such chapter as added by chapter four hundred and thirty-four of the laws of nineteen hundred and twenty, as section five hundred and twenty-four-a, as so renumbered by chapter five hundred and twenty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 522. **Appeals.** Appeals may be taken to the county court of Monroe county from judgments and orders of the city court, civil branch, of the city of Rochester and from orders of the judges thereof as provided by laws regulating appeals from justices' courts, and the provisions thereof apply to such appeals, except (a) those authorizing and regulating an appeal for a new trial in the appellate court, (b) prescribing the papers on which an appeal is to be heard, (c) prescribing the powers of the appellate court, herein otherwise regulated, in relation to the judgment appealed from, grounds of reversal or modification, ordering new trials and awarding costs, (d) where a motion is made to open a default, to vacate or amend a judgment or an order, or for a new trial, as provided in section five hundred and twelve, the time from the making of the motion to the decision thereof by the court, or judge, shall not be deemed part of the time within which an appeal from a judgment or an order must be taken, and (e) except as herein otherwise expressly modified. The appeal must be heard on the return or a certified or stipulated copy thereof, and may be brought on for hearing in the county court in the same manner and on the same notice as motions are or may be brought on for hearing in said court or may be put on the calendar of said court in the same manner as an appeal from a judgment of a justice's court. An application may be made to the county court to open a default, with or without an appeal, where a party has failed to appear before the city court, either upon the return of the summons or precept, or at the time to which the trial of the action or proceeding was adjourned, where he shows, by affidavit or otherwise, to the satisfaction of the court that manifest injustice has been done, and renders a satisfactory excuse for his default and makes his application with due diligence and in no event more than one year after the entry of the judgment; and the county court may, in its discretion, set aside the judgment or order, or stay the proceedings thereunder, and by order direct a new trial, before the city court, at such time and place specified in the order, and upon such terms as it deems proper, which application may be heard without a return unless ordered by the court; and an appellant may apply upon affidavits and the return to said court for a new trial or hearing upon the

ground of newly discovered evidence; the court in either case may stay any or all proceedings under the default judgment, or under the judgment or order appealed from upon such terms as it deems proper, and may grant a new trial or hearing as hereinafter provided upon such terms as it deems proper. The county court and other appellate courts on such appeals must render judgment according to the justice of the case, without regard to technical errors or defects which do not affect the merits, and may affirm or reverse, wholly or partly, or modify, the judgment or order appealed from for errors of law or of fact or because the judgment is excessive or insufficient or contrary to the evidence or contrary to law, and may, if necessary or proper, grant a new trial or hearing in the city court, civil branch, of the city of Rochester, or before a judge thereof, as may be proper, at a time designated by it, and thereupon the city court, civil branch, or judge must proceed, and adjournments may be granted, a jury trial demanded, and all other proceedings taken as if the action or proceedings had been commenced anew. A copy of the judgment or order granting a new trial or hearing must be served by the party entering it both on the clerk of the city court, civil branch, and on the opposite party or his attorney at least two days before the time set for the new trial or hearing. When a new trial or hearing is granted the appellate court may in its discretion award costs of the appeal to either party absolutely or to abide the event.

§ 5. This act shall take effect immediately.

CHAPTER 484

AN ACT to amend chapter five hundred and twenty of the laws of nineteen hundred and six, entitled "An act in relation to the municipal court of the city of Syracuse," generally.¹

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fourteen of chapter five hundred and twenty of the laws of nineteen hundred and six, entitled "An act in relation to the municipal court of the city of Syracuse," as amended by chapter thirty-eight of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

L. 1906, ch.
520, § 14,
as amended
by L. 1918,
ch. 38,
amended.

§ 14. **Rules.** The judges of said court may, from time to time, make, alter and amend rules of practice, not inconsistent with the provisions of law. Such rules or alterations, or amendments

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

thereof shall not take effect, however, until a copy thereof signed by the judges of said court, shall have been filed in the office of the clerk of Onondaga county.

§ 21, 26
amended.

§ 2. Sections twenty-one and twenty-six of such act are hereby amended to read, respectively, as follows:

§ 21. **Substituted service.** Substituted service of a summons upon a resident of the city, or a resident within the jurisdiction of the court, may be ordered by the court or a judge thereof, returnable in the discretion of the court, when it appears by the certificate of a marshal, or the affidavit of a person not a party, that proper and diligent effort has been made to serve the summons upon the defendant, and that personal service cannot be made, the order must direct that the service of a summons must be made on or before a day specified and in the manner prescribed in section two hundred and thirty-one of the civil practice act. On filing the order and papers on which it was granted and the affidavit showing service according to the order, the summons is deemed served and the same proceedings may be taken thereupon as if it had been personally served.

§ 26. **Judgments.** A judgment of said court shall be in all respects the same as a judgment rendered by a justice of the peace of a town and all provisions of the code of civil procedure in relation to filing transcripts of such judgments and docketing the same in the office of the clerk of Onondaga county, or any other county, and the effect of such judgment, when so docketed shall in all respects be the same as if said judgment was recovered before a justice of the peace of a town. The transcript of the judgment shall be indorsed with the name of the attorney of record of the judgment creditor, which name the county clerk shall enter in his docket of the judgment; and such attorney may execute the satisfaction-piece of the judgment, within two years after the docketing of the judgment. But where the authority of the attorney has been revoked, a satisfaction by him is not conclusive against the person entitled to enforce the judgment, in respect to a person who had actual notice of the revocation before a payment on the judgment was made or a purchase of property bound thereby was affected. But such judgment shall be a lien and remain in force for the same length of time as a judgment originally recovered in the county court.

§ 27
amended.

§ 3. Section twenty-seven of such act is hereby amended to read as follows:

§ 27. **Adjournments.** An action, motion or proceeding, may be adjourned,

1. By the court upon good cause shown.
2. By stipulation of the parties or their attorneys.
3. The court may, in its discretion, hold an action, motion or proceeding, generally, and when so held shall be adjourned from day to day not exceeding one year without being called.
4. If the defendant has not appeared, judgment may be taken

on motion of the plaintiff without further notice on any day at the opening of court, or as soon thereafter as counsel can be heard.

5. If the defendant has appeared, an action or proceeding may be moved for trial on giving a party, or his attorney, three days' notice, in writing, by mail or by personal service.

§ 4. Sections forty to forty-four of such act are hereby renumbered forty-six to fifty and six new sections inserted to be sections forty to forty-five, inclusive, to read as follows:

§ 40. Jurors may be served by mailing a written notice, in a properly enclosed and stamped envelope addressed to his place of residence, signed by a judge, clerk, or deputy clerk of the court, specifying the time and place of the trial of the action or proceeding and specifying the penalty incurred for failure to appear.

§§ 40-44
renum-
bered
§§ 46-50;
§§ 40-45
added.
Jurors,
how
served.

§ 41. Before and after a transcript has been filed in the county clerk's office, except an appeal has been taken and is pending the court shall have power to open defaults and grant new trials upon the minutes, upon all the grounds upon which the supreme court has the power to grant a new trial, stay executions in the officers' hands, modify, vacate, and correct judgments and transcripts. The county clerk shall file and enter orders and docket judgments of municipal court upon request by a party in interest.

Opening de-
faults, etc.

Filing
orders, etc.

§ 42. The court shall have power, in its discretion, to order a jury trial at any time before or during a trial or after trial and shall direct which party shall pay for the same, the expense of which to be taxed by the successful party.

Jury trial.

§ 43. The court shall have the power of the supreme court to order a verdict signed by all of the jurors and sealed to be delivered to the presiding judge by the foreman or the marshal in charge of the jury upon which the court shall enter judgment.

Sealed
verdict.

§ 44. The court may render judgment for or against any one or more plaintiffs and for or against any one or more defendants to determine the ultimate rights of all the parties and to render judgment accordingly; but, unless the court otherwise directs, the controversy between defendants shall not delay a judgment to which a defendant is entitled. When there are two or more defendants and a several judgment is proper, the court shall have the power to render judgment, or require that plaintiff take judgment against one or more of them, and to direct that the action be severed, and proceed against the others as sole defendants.

Several
judgments.

A judgment of nonsuit, after a cause has been submitted for decision, shall not be a bar to a new action unless specifically stated to be upon the merits.

Nonsuit;
effect.

§ 45. Section ninety-six of the civil practice act, with reference to consolidation of actions; sections two hundred and eighty-five, two hundred and eighty-six and two hundred and eighty-seven, with reference to interpleader; sections one hundred and seventy-one, one hundred and seventy-two, one hundred and seventy-three and one hundred and seventy-four, with reference to tender; and sections seven hundred and fifty, seven hundred and fifty-one, seven hundred and fifty-two and seven

Applica-
tion of cer-
tain sec-
tions of
civil prac-
tice act.

hundred and fifty-three, with the exception of subdivision seven of section seven hundred and fifty-three, of chapter thirty-five of the judiciary law, with reference to contempt of court, are hereby made applicable to municipal court.

Applica-
tion of jus-
tice prac-
tice.

Justice practice as it now exists, except as otherwise specially provided by statute, shall be applicable to municipal court.

§ 5. This act shall take effect immediately.

CHAPTER 485

AN ACT to amend the surrogate's court act, in relation to contents of citation.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 53
amended.

Section 1. Section fifty-three of the surrogate's court act is hereby amended to read as follows:

§ 53. **General contents of citation.** A citation must substantially set forth:

1. The name and residence of the petitioner, and of the person to whose estate or fund the proceeding relates.

2. The names of all the persons to be cited who have not waived its issue and service, or have not appeared, so far as the same can be ascertained, ¹ but where the number of persons of any class to be cited exceeds five hundred it need not specify the name of each person of such class but may be directed to such class by such appropriate description as the surrogate may deem adequate.

3. The time and place when the citation is returnable, which time must not be more than four months after the date thereof.

4. The object of the proceeding in regard to which the persons cited are required to show cause.

5. The date when the citation issues.

6. It must be attested in the name of the surrogate, and by the seal of his court.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

¹ Remainder of subd. 2 new.

CHAPTER 486

AN ACT to amend chapter seven hundred and thirty-eight of the laws of eighteen hundred and ninety-seven, entitled "An act creating a board of assessors in and for the city of Utica, and defining its powers," in relation to preparation and review of assessment-rolls.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section nine of chapter seven hundred and thirty-eight of the laws of eighteen hundred and ninety-seven, entitled "An act creating a board of assessors in and for the city of Utica, and defining its powers," as amended by chapter forty-two of the laws of nineteen hundred and eleven¹ is hereby amended to read as follows:

L. 1897, ch. 738, § 9, subd. 2, as amended by L. 1911, ch. 42, amended.

2. Preparing and review of assessment-rolls. In the manner provided in the tax law or other general laws of the state, relative to the listing, valuation and assessment of property for the purposes of taxation, said board shall proceed to make, correct, review, complete and verify the assessment-rolls for each ward of said city. The annual assessment of property in the city for the succeeding fiscal year² shall be made by the assessors thereof by the first day of September,³ and the assessment-roll shall be completed on or before the tenth day of September.⁴ Forthwith the board of assessors shall cause a notice to be posted conspicuously in public places of the city and published in the official papers, stating that they have completed the assessment-roll and that a copy thereof has been placed in the assessors' office for public inspection, and that on a day specified in said notice, not less than ten days from the completion of said roll, the board shall meet to hear and determine complaints and objections to such assessment, which day shall be known as grievance day. Upon the day so designated the board shall meet and act in conformity with said notice. Upon the completion and verification of the assessment-roll, it shall be filed, on or before the first day of October⁵ with the city clerk, there to remain ten days for public inspection. A separate assessment-roll shall be made for each ward of the city, prepared as prescribed by the tax law, except that they shall contain sixth and seventh columns. The said board of assessors shall insert in the sixth column the city tax and file said roll with such city tax thereon duly verified by the assessors as prescribed by law, in the city clerk's office, and said

¹ Previously amended by L. 1908, ch. 129.

² Words "for the succeeding fiscal year" new.

³ Formerly "the fifteenth day of June."

⁴ Formerly "the fifth day of July."

⁵ Formerly "the twenty-fifth day of July."

city clerk on or before October fifteenth in each year shall deliver to the supervisor of each of the several wards in the city, the said assessment-rolls, and such supervisor shall deliver the same to the board of supervisors as the assessment-rolls of the city, and upon such rolls the board of supervisors shall insert, or cause to be inserted, in the seventh column thereof, the amount of the state and county tax, and attach thereto their warrant for the collection thereof, and the same shall thereupon be filed by the supervisor of such ward with the department of assessment and taxation of the city. It shall be the duty of each supervisor of the city to make one copy of the assessment-roll of his ward, including the tax so inserted by the board of supervisors and the warrant so attached, which copy he shall certify to be correct, and deliver the same, upon receiving the proper bond, to the treasurer, or collector, as required by law, and for such service he shall receive the compensation fixed by law. The said board of assessors shall make one copy of each of said rolls containing the city tax and deliver the same to the city treasurer. Upon the hearing and determination of complaints in relation to assessments, on grievance day, or at any adjourned day, as prescribed by section thirty-six of the tax law, the mayor, president of the common council and chairman of the committee of the common council on legal proceedings, assessments and taxation are hereby authorized to meet with said assessors, and in the determination thereof shall have the same powers and authority possessed by such assessors. The board of assessors shall give notice of the time and place of such hearing, to the mayor, said president and said chairman personally, at least twenty-four hours before the time fixed therefor. When reviewing and correcting such assessment-rolls, the board of assessors, the mayor, president and chairman aforesaid, may insert therein any property liable to taxation which may have been omitted, on giving personal notice to the owner or occupant thereof in writing of not less than two days to attend at the time and place therein stated, and show cause why any specified correction should not be made, and they shall also have the same powers on such hearing as are possessed by the assessors of towns. The rolls when finally completed and corrected as aforesaid, shall be verified by the board of assessors, or a majority thereof, in the form and manner required by the tax law.

In effect
Sept. 1,
1922; ex-
ception.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two, except that the annual assessment of property in such city for the fiscal year nineteen hundred and twenty-three, pursuant to this act, shall be made by the assessors prior to such date.

CHAPTER 487

AN ACT to amend chapter four hundred and fifty-two of the laws of nineteen hundred and eight, entitled "An act to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto," in relation to assessments.

Accepted by the City.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of article five-a of chapter four hundred and fifty-two of the laws of nineteen hundred and eight, entitled "An act to supplement the general laws relating to the government of the city of Yonkers, and to revise and consolidate the local laws relating thereto," as added by chapter seven hundred and twenty-five of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

L. 1908, ch. 453, art. 5a, § 1, as added by L. 1917, ch. 735, amended.

§ 1. For the purposes of this article each instalment of an assessment payable in annual instalments shall be deemed to be a separate assessment. In this article, unless the context otherwise requires, the word "tax" shall be interpreted as including water rents, expenses incurred in repairing, grading and removing snow and ice from sidewalks, and all other items, inserted in the annual tax roll and made a part of the annual tax upon lands and tenements, and the words "lands and tenements" shall be interpreted as including special franchises. The right of the city to receive taxes and assessments due and unpaid and the lien thereof, may be sold by the city, and after such sale shall be transferred, in the manner provided by this article. The right and lien so sold shall be called "tax lien," and the instrument by which it is assigned shall be called "transfer of tax lien." On or before the thirty-first day of December in each year the city treasurer shall cause to be published in the official newspapers of the city once a week for not less than ¹ six successive weeks a notice stating that the respective owners of the lands and tenements in the city of Yonkers on which any taxes or assessments have been imposed and become a lien and have remained unpaid for one year ² since the same were due and payable, are required to pay the amount of such taxes and assessments, together with all unpaid taxes and assessments affecting such lands and tenements which became a lien and were due and payable prior to a day named in such notice, with all penalties thereon remaining unpaid, together with the interest thereon at the rate provided by law from the time the same became due and

Definitions.

Sale of right to receive taxes and assessments and liens thereof.

Notice of sale of tax liens.

¹ Remainder of sentence new.

² Words "not less than" new.

³ Formerly "two years."

Publica-
tion of de-
scription of
land and
amount
of tax.

Sale of tax
lien at
public
auction.

Cancel-
lation of tax
leases or
certificates
of sale.

payable to the time of payment, and the charges of such notice, and all other costs and charges accrued thereon to the time of payment, and further stating that if default shall be made in such payment the lien of the city upon said lands and tenements for any tax or assessment which became a lien and became due and payable prior to said day named in said notice will be sold at public auction at a day and place therein to be specified (not more than six months after the first publication of said notice) for the lowest rate of interest, not exceeding twelve per centum per annum, at which any person or persons shall offer to take the same in consideration of advancing the said taxes, assessments and penalties, as the case may be, the interest thereon as aforesaid to the time of sale, the charges of notice and all other costs and charges accrued thereon, and that such sale may be continued from time to time until all said liens of taxes and assessments shall be sold. After said notice shall have been published once a week for not less than ⁴ six successive weeks the city treasurer shall cause to be published in the official newspapers, once a week for three successive weeks, a further or additional notice setting forth the lots and parcels of land upon which the tax lien is to be sold, described as in the tax rolls, together with the aggregate amount of the tax lien thereon and the assessed valuation of each said lot and parcel as last approved by the board of assessors and confirmed by the board of aldermen. The city treasurer may also cause a detailed statement or description of the property the tax lien on which is to be sold to be published in a pamphlet, and in such case shall deliver copies of said pamphlet to any person applying therefor. No error in the description of any property or in the statements of the amount of tax liens in such further or additional notice or in such pamphlet shall render any sale void or in any manner affect its validity. No other notice or demand of the tax or assessment shall be required to authorize the sale of tax liens on any lands and tenements as herein provided. If, notwithstanding the notices aforesaid, the owner or owners shall refuse to pay such taxes, assessments and penalties, with the interest as aforesaid, and the charges attending such notice, advertisement and pamphlet, then it shall and may be lawful for the said treasurer to cause such tax liens on such lands and tenements to be sold at public auction, for the purpose and in the manner expressed in the said notice, and such sale shall be made on the day and at the place mentioned in the said notice, and shall be continued from time to time, if necessary, until all the tax liens on the lands and tenements so advertised shall be sold. The city treasurer may, with the approval of the board of estimate and apportionment, cancel any certificate or lease or transfer of tax lien for unpaid taxes and assessments, held by the city of Yonkers, or to which the city has acquired the right, and upon such cancellation the lien of such tax or assessment shall be and remain the same as if no sale for

⁴ Words "not less than" new.

such unpaid tax or assessment had been made. To every such tax or assessment there shall be added interest at the rate of seven per centum per annum, computed from the time such tax or assessment became due up to the first day of July, nineteen hundred and seventeen, and interest at the rate of eight per centum per annum computed from the first day of July, nineteen hundred and seventeen, to the time of payment of such tax or assessment.

§ 2. This act shall take effect October first, nineteen hundred and twenty-two.

Interest on
unpaid tax.

In effect
Oct. 1,
1922.

CHAPTER 488

AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting the public interests in the city of New York," in relation to the salaries of assistant district attorneys in the county of New York.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen hundred and three of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as last amended by chapter eight hundred and twenty-two of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:²

L. 1882, ch.
410, § 1503,
as amended
by L. 1920,
ch. 232,
amended.

§ 1503. The district attorney of the county of New York shall receive for his services as such district attorney a yearly salary of fifteen thousand dollars and shall be paid in equal monthly payments. There shall be twenty assistant district attorneys for said county, three of whom shall each receive a yearly salary of twelve thousand dollars, eight of whom shall each receive a yearly salary of ten thousand dollars and nine of whom shall each receive a yearly salary of seven thousand five hundred dollars. The office is so far local as to require the residence of the district attorney and his assistants within the county. Process servers in the office of the district attorney of the county of New York shall receive a minimum annual salary of eighteen hundred and one dollars. The district attorney of the county of New York may however, notwithstanding the provisions of any other law, fix the salary of any process server at a greater amount, not to exceed twenty-two hundred and twenty dollars per annum, and the salary of the chief

District at-
torney; sal-
ary, assist-
ants, resi-
dence.

Process
servers.

¹ Previously amended by L. 1885, ch. 239; L. 1887, ch. 564; L. 1895, ch. 696; L. 1907, ch. 632; L. 1910, ch. 295; L. 1911, ch. 516; L. 1912, ch. 191; L. 1918, ch. 618.

² Section materially amended.

process server at not to exceed two thousand nine hundred and four dollars per annum.

§ 2. This act shall take effect immediately.

CHAPTER 489

AN ACT to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," in relation to the calendars in the court of general sessions in the city of New York.

Became a law April 5, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1882, ch.
410, § 1537,
as amended
by L. 1909,
ch. 542,
amended.

Section 1. Section fifteen hundred and thirty-seven of chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York," as amended by chapter five hundred and forty-two of the laws of nineteen hundred and nine, is hereby amended to read as follows:¹

§ 1537. The court of general sessions shall have power at all times to make rules and regulations for its government and conduct and for the practice therein, and to enforce the same by imprisonment for contempt, or by fine, or by both. It is a court of record.

§ 2. This act shall take effect immediately.

¹Section materially amended.

LAWS OF THE STATE OF NEW YORK

PASSED AT THE 145TH REGULAR SESSION OF THE LEGISLATURE, BEGUN
JANUARY 4, 1922, AND ENDED MARCH 17, 1922, AT THE CITY OF ALBANY

VOLUME II

CHAPTER 490

AN ACT to provide a charter for the city of Mount Vernon.¹

Accepted by the City.

Became a law April 4, 1922, with the approval of the Governor. Passed,
three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly,
do enact as follows:*

- Article
- I. Short title (§ 1).
 - II. General provisions (§§ 2-4).
 - III. General city powers (§ 7).
 - IV. Officers and elections (§§ 12-30).
 - V. Common council (§§ 32-52).
 - VI. Mayor (§§ 60-67).
 - VII. Department of estimate and contract (§§ 70-85).
 - VIII. Department of finance (§§ 90-98).
 - IX. Department of public works (§§ 105-110*).
 - X. Department of public safety (§§ 114-126).
 - XI. Department of public health (§§ 132-143).
 - XII. Department of law (§§ 147-161).
 - XIII. Purchasing department (§§ 165-169).
 - XIV. City court (§§ 173-218).
 - XV. Department of assessment and taxation (§§ 222-245).
 - XVI. Civil service commission (§ 249).
 - XVII. Department of education (§ 254).
 - XVIII. Miscellaneous provisions (§§ 259†-266).
 - XIX. Construction (§§ 271-274).
- Schedule of laws repealed.

ARTICLE I.

SHORT TITLE.

Section 1. Short title.

Section 1. **Short title.** This act is a public act to be known as the " Charter of the City of Mount Vernon."

* So in original. [Should be "108".]

† So in original. [Should be "260".]

¹ The previous charter (L. 1892, ch. 182) is amended by L. 1922, ch. 333, ante, and ch. 513, post. The amendments effected by said ch. 333 are incorporated in § 98 of the present act.

ARTICLE II.

GENERAL PROVISIONS.

Section 2. Corporate name.

3. City boundaries.

4. Definitions.

§ 2. **Corporate name.** The territory in the county of Westchester, included within the boundaries described in the next section shall continue to be a city by the name of the "City of Mount Vernon" and the citizens of this state, from time to time inhabitants within the said boundaries, shall be a corporation by the name of "The City of Mount Vernon."

§ 3. **City boundaries.** The city boundaries shall continue to be as follows: Commencing at a point in the center of the Bronx river at the intersection thereof with the northerly boundary line of the city of New York; thence running in a generally easterly direction along the northerly boundary line of the city of New York to the westerly side of South Eleventh avenue at Crawford avenue; thence running southerly along the westerly side of Eleventh avenue to Mundy lane; thence running southerly along the westerly side of Mundy lane to Kingsbridge road; thence running due south to the northern boundary line of New York city; thence running easterly along the northerly boundary line of the city of New York to the center of Hutchinson river or creek; thence running northerly along the center line of said Hutchinson river or creek as the same existed at the time of the incorporation of the said city of Mount Vernon, to a point south of the center line of New Rochelle road, where the towns of New Rochelle, Pelham and Eastchester meet; thence running westerly along a line parallel with the northern boundary line of New York city to the center of the Bronx river; thence running southerly along the center line of the Bronx river as the same existed at the time of the incorporation of the said city of Mount Vernon to the point or place of beginning. Being the boundaries established by the city charter of the city of Mount Vernon, enacted March twenty-second, eighteen hundred and ninety-two in chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two.

§ 4. **Definitions.** The word "his" as used in this chapter shall, in all proper cases, be held to include and be coextensive with the words "her," "it" and "their;" and the word "person" shall be held to include and be coextensive with the words "persons," "company," "joint stock association" and "corporation." The word "street" shall be held to include and be coextensive with "roads," "bridges," "avenues," "highways," "alleys" and "square;" the word "work" shall be held to include and be coextensive with "improvements" and "repairs;" the word "materials" shall be held to include and be coextensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture;" the word "tax" shall in all proper cases be held to include and be coextensive with "water rents or rates," "assessments or reassessments for local

improvements " and the singular noun shall be held to include, and be coextensive with the plural.

ARTICLE III.

GENERAL CITY POWERS.

§ 7. Corporate powers. The city shall have power:

1. To take, purchase, hold, lease, sell and convey such real and personal property as the purposes of the corporation may require.

2. To take by gift, grant, bequest and devise and hold real and personal estate absolutely or in trust for any public use including that of education, art, ornament, health, charity or amusement, for parks or gardens, or for the use or erection of statues, monuments, buildings or structures, upon such terms or conditions as may be prescribed by the grantor or donor and accepted by said corporation and to provide for the proper administration of the same.

3. To make, have and use, and from time to time to alter, a common seal.

4. To contract and be contracted with, to sue and be sued, to complain and defend and to institute, prosecute, maintain and defend any action or proceeding in any court.

5. To require of any officer or employee of the city a bond or undertaking for the faithful performance of his duty; to determine the amount, form and sufficiency of the sureties thereof; and in its discretion to pay the premium thereon, if any,

6. To lay out, establish, construct, maintain, continue, operate, alter, extend and discontinue sewer and drainage systems and water supply systems; and to continue to lay out, establish, construct, contribute to, maintain, manage and operate public buildings, markets, parks, playgrounds, libraries and public places, and upon the discontinuance thereof to sell and convey the same, subject to the limitations and restrictions provided in this chapter.

7. To provide for constructing, operating and maintaining in, along and under the public streets, highways, parks, squares and public places and in, along and under any real estate owned by the city, or acquired for the purpose, conduits or ducts for electrical wires and cables and to permit the installation therein upon uniform rates, terms, rentals and conditions, which shall be approved by the board of estimate and contract, of electrical wires and cables, owned, used or operated by any corporation authorized and empowered to construct, own, use or maintain a line or lines of electric telegraph, telephone, or signal system within the city.

8. To provide for the planting and rearing and for protecting and preserving shade and ornamental trees in the streets and public grounds, and to prohibit the injury, defacement or destruction of such trees.

9. To sell and supply water from the water system of the city to any corporation or individual outside of the city and to lay

and construct necessary pipes and conduits for delivery of the same to such corporation or individual.

10. To license any and all kinds of businesses carried on within the city.

11. To have and exercise all of the rights, privileges and jurisdiction essential to a proper exercise of its corporate functions, including all that may be necessarily incident to, or may be fairly implied from, the powers specifically conferred upon such corporation.

12. To have and exercise all of the rights, privileges, functions and powers now prescribed and exercised by it under existing laws and not inconsistent with the provisions of this chapter.

ARTICLE IV.

OFFICERS AND ELECTIONS.

- Section 12. Officers.
13. Elective officers.
14. Appointive officers.
15. Qualifications.
16. Terms of office of elective officers.
17. Vacancies.
18. Certificate of appointment.
19. Restrictions; officers not to be interested in contracts.
20. City elections.
21. Fixed salaries.
22. Additional allowances.
23. Additional fees or compensation not to be paid.
24. Official undertaking.
25. Penalty for violation of duty.
26. Elective officers removable by the governor.
27. Removal of appointive officers and employees.
28. Removed officer not eligible for re-election or re-appointment.
29. Officers trustees of public property.
30. Annual report of departments; annual message.

§ 12. **Officers.** City officers, within the meaning of this chapter, include all persons elected or appointed to any office of the city created or authorized by this chapter or otherwise by law.

§ 13. **Elective officers.** There shall be elected by the qualified electors of the city a mayor, a comptroller, five aldermen, five supervisors, a city judge, and such other officers as may be provided by law.

§ 14. **Appointive officers.** There shall be appointed by the mayor, to hold office during his pleasure, a commissioner of public works, a commissioner of public safety, a corporation counsel, a purchasing agent, an acting city judge, a commissioner of assessment and taxation, three civil service commissioners, two constables, and as many commissioners of deeds as may be authorized by ordinance of the common council. There shall also be appointed by the mayor a commissioner of public health to hold office during good behavior, unless removed as hereinafter provided.

§ 15. **Qualifications.** Every person elected or appointed to office shall possess the qualifications prescribed by section three (3) of the public officers law. No person shall be eligible to the office either of mayor, or comptroller, or alderman, or city judge, or supervisor, unless he has been a resident elector of the city during a period of three years before such election. No person shall be eligible to the office of city judge or acting city judge of the city court of the city of Mount Vernon or of corporation counsel, unless he has been admitted to practice as an attorney and counsel or in the supreme court of the state of New York, and has had at least three years' active practice of his profession in the state of New York. No person shall be eligible to appointment as a commissioner of health who does not possess the qualifications established for health officers by the public health council, public health law and other laws of the state applicable to health officers. No person shall be eligible to appointment to the office of city engineer unless he be a civil engineer of at least three years' practical experience in his profession or a graduate of a technical school or college.

§ 16. **Terms of office of elective officers.** The term of office of an elective officer, unless elected to fill a vacancy, shall commence on the first day of January next succeeding his election. The terms of office of the mayor, the comptroller, the aldermen and the city judge shall be four years. All of the elective officers in office at the time of the passage of this act, except as hereinafter provided, shall continue to hold their respective offices until the terms of office to which they have been elected as heretofore provided by law shall expire. The terms of office of the receiver of taxes, the city treasurer, and the assessors in office at the time of the passage of this act shall cease and determine on the thirty-first day of December, nineteen hundred and twenty-two.

§ 17. **Vacancies.** If a vacancy shall occur, otherwise than by expiration of term, in an elective office of the city, except those of the mayor and the alderman, the mayor shall appoint a person to fill such vacancy. The person so appointed to such vacancy shall hold office until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the next city election happening not less than sixty days after such vacancy occurs.

§ 18. **Certificate of appointment.** Every appointment to a city office must be made by a certificate in writing signed by the appointing officer; or if made by a board, or the common council, by the presiding officer thereof, and must be filed in the office of the city clerk before the same becomes effective.

§ 19. **Restrictions; officers not to be interested in contracts.** No person shall, at the same time, hold more than one city office. Upon the acceptance by a city officer of a second office the office first held by him shall thereupon become vacant. No member of the common council or other officer or employee of the city, or person receiving a salary or compensation from funds appropriated by the city, shall be interested directly or indirectly in any

contract to which the city is a party, either as principal, surety or otherwise; nor shall any such member of the common council, city officer or employee or person, or his partner, or any agent, servant, or employee of such officer, employee or person, or of the firm of which he is a partner, purchase from or sell to the city, or any officer thereof, any real or personal property for the use of the city, or any board or officer thereof, nor shall he be interested directly or indirectly, in any work to be performed for, or services rendered to or for it, or in any sale to or from said city, or to any officer, board or person in its behalf. Any contract made in violation of any of these provisions shall be void. A person shall not be deemed to be interested in a contract, purchase or sale made by a corporation with, from or to the city solely by reason of the fact that he is a stockholder or director of such corporation. The term "city officer" as used herein, however, shall not be deemed to include a commissioner of deeds.

§ 20. **City elections.** At the general election in the year nineteen hundred and twenty-three, there shall be elected by the electors of the city a mayor for a term of four years, a comptroller for a term of two years, a city judge for a term of four years, three aldermen for a term of two years, two aldermen for a term of four years and five supervisors for a term of two years. At the general election to be held in the year nineteen hundred and twenty-five, there shall be elected by the electors of the city a comptroller to hold office for a term of four years, three aldermen to hold office for a term of four years, and five supervisors to hold office for a term of two years. At the general election to be held in the year nineteen hundred and twenty-seven and in each and every odd-numbered year thereafter, there shall be elected by the qualified electors of the city, officers to fill vacancies in elective offices.

§ 21. **Fixed salaries.** The annual salary of the mayor shall be six thousand dollars (\$6,000); of the comptroller, five thousand dollars (\$5,000); of the city judge, four thousand five hundred dollars (\$4,500); of the president of the common council, one thousand five hundred (\$1,500); of each of the aldermen, seven hundred and fifty dollars (\$750). All such salaries shall be paid in installments as directed by the board of estimate and contract.

§ 22. **Additional allowances.** No allowance or compensation, in addition to the salary or compensation prescribed by law or authorized by this chapter or otherwise by law, shall be paid to any officer or employee of the city or to any person paid out of city funds, nor shall any amount in excess of the sum payable under any contract be paid on account thereof.

§ 23. **Additional fees or compensation not to be paid.** No officer of the city, except the marshal of the city court, constables and commissioners of deeds, shall have or receive to his use any perquisites, compensation or fees for services pertaining directly or indirectly, or which may hereafter be added to the duties of his office, in addition to his salary; and all perquisites, compensation and fees paid to and received by any such officer for services pertaining directly or indirectly, or which may hereafter be

added to the duties of his office, other than his salary received from the city, shall be the property of the city, and shall be paid by the officer receiving the same to the comptroller. The compensation of all the officers, clerks and subordinates in the several departments shall not exceed in the aggregate the appropriation made by the board of estimate and contract for that purpose.

§ 24. **Official undertaking.** The comptroller, the deputy comptroller, the commissioner of public works, the commissioner of public safety, the commissioner of public health, the purchasing agent and such other officers as may be required so to do by ordinance of the common council, before entering upon the duties of their respective offices, shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the common council. The common council may also, in a proper case, require an undertaking of any officer in addition to that required by law. The mayor shall examine the sufficiency of the proposed sureties of any officer or person from whom an official undertaking is required and may require such sureties to be examined on oath as to their property qualifications and liabilities. The deposition of each surety shall be reduced to writing, subscribed by him, certified by the officer administering the oath and annexed to and filed with the undertaking.

No person elected or appointed to a city office shall enter upon or continue in the discharge of the duties of his office until he shall have executed and filed with the city clerk the official undertaking, if any, required to be given and the same shall have been approved as to its form and validity by the corporation counsel and as to the sufficiency of the sureties by the mayor. All such undertakings shall be recorded in the office of the city clerk. In case any city officer shall fail to file the required official undertaking, if an elective officer, within thirty days after receipt of his certificate of election, and if an appointive officer, within fifteen days after receipt of notice of his appointment, the office shall be deemed to be vacant and the vacancy shall be filled in the manner herein provided for the filling of a vacancy therein happening otherwise than by expiration of term. The official undertaking of a city officer shall not be a lien upon real estate owned by him or the sureties on such undertaking.

§ 25. **Penalty for violation of duty.** Any officer or employee who wilfully violates or evades any provision of law, or of this chapter, or by culpable neglect of duty allows any public property to be lost to the city, shall be deemed guilty of a misdemeanor and, in addition to the penalties imposed by law, shall on conviction forfeit his office or employment.

§ 26. **Elective officers removable by the governor.** The mayor, comptroller and city judge may be removed by the governor in the same manner as a sheriff, except that the governor may direct the inquiry provided by law to be conducted by the attorney-general. After charges have been received by the governor, he may suspend the officer affected thereby for a period not exceeding sixty days pending the investigation.

§ 27. **Removal of appointive officers and employees.** Except as otherwise provided by law or herein otherwise specified, all ap-

pointive officers, except the commissioner of public health, may be removed from office by the officer or board making the appointment. The commissioner of public health may be removed only upon charges and after hearing thereon. Such charges shall be for disability for service or neglect or dereliction of official duty or incompetency or incapacity to perform his official duties or some delinquency materially affecting his general character or fitness for the office, unless otherwise specifically provided by law. Where the charges are for disability for service, the examination shall be one of inquiry only and the decision made in a proper case, may be for honorable discharge from service. Whenever an appointive officer shall be removed from office, the officer or board making the appointment shall file with the city clerk a written statement setting forth the fact of such removal.

§ 28. **Removed officer not eligible for re-election or reappointment.** An elective officer who has been removed from office under any provision of this chapter shall not be eligible for election to fill the vacancy caused by his removal.

§ 29. **Officers trustees of public property.** The common council and the several members thereof, and all officers and employees of the city are hereby declared trustees of the property, funds and effects of the city respectively, so far as such property, funds and effects are or may be committed to their management or control, and every taxpayer residing in the city is hereby declared to be a cestui que trust in respect to the said property, funds and effects respectively; and any co-trustee or any cestui que trust shall be entitled as against said trustees and in regard to said property, funds and effects to all the rules, remedies and privileges provided by law for any co-trustee or cestui que trust, to prosecute and maintain an action to prevent waste and injury to any property, funds and estate held in trust; and such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the city or by any co-trustee or cestui que trust aforesaid. The remedies herein provided shall be in addition to those now provided by law.

§ 30. **Annual report of departments; annual message.** The several heads of departments shall present to the mayor annually, on or before the first Monday of December, a report of the proceedings of their respective departments during the preceding year. The mayor shall transmit the same to the common council with the annual message, which he is required to submit to the common council; but nothing in this section contained shall be construed to relieve such heads of departments from furnishing such other information as may be required by the mayor or common council at any time.

ARTICLE V.

COMMON COUNCIL.

Section 32. Legislative power.*

33. Members; president; organization.

34. City clerk.

* So in original. [Does not conform to section heading.]

Section 35. Meetings.

36. Powers.

37. Legislative acts.

38. Procedure after passage of ordinance.

39. Record of ordinances.

40. Administrative code.

41. Special lighting districts.

42. Alterations of grades and names of streets.*

43. Apportionment of city's expense of improvements.

44. Discontinuance of streets.

45. Designations of official papers; official printing.

46. Appropriations.

47. Disposition of real estate; franchises.

48. Election districts.

49. Water rates.

50. Investigations of public officers.

51. Penalties.

52. Penalties for violation of ordinances.

§ 32. **The legislative power of the common council.** The legislative power of the city, however conferred or possessed by it, during the first year after this chapter goes into effect, from January first, nineteen hundred and twenty-three, to December thirty-first, nineteen hundred and twenty-three, is vested in a common council composed of the five members of the existing common council who were chosen for two-year terms at the general election held during the year nineteen hundred and twenty-one, and thereafter is vested in a common council composed as hereinafter provided, and it has authority to enact ordinances, not inconsistent with law, for the government of the city and the management of its business, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants and the protection and security of their property; and its authority, except as otherwise provided in this chapter or by law, is legislative only.

§ 33. **Members; president; organization.** The aldermen of the city shall constitute the common council thereof. The members of the common council shall meet in the room provided for the purpose at eight o'clock in the evening on the second day in January, nineteen hundred and twenty-three, and each year thereafter, or if that day be Sunday or a legal holiday, then on the next day, and organize. The common council shall elect to hold office during its pleasure, a president of the common council who shall preside at all meetings and discharge other duties as may be defined by ordinance of the common council and otherwise by this chapter or by law. The common council shall constitute and appoint such other officers and committees as may be needed for the execution of the powers herein and hereby granted to the common council. The common council may, at any regular meeting, elect one of its members president pro tempore to act as president during the temporary absence or disability of the president, and to

* So in original. [Does not conform to section heading.]

be the president of the common council in case of a permanent vacancy in that office. The president of the common council shall vote as a member of the common council.

§ 34. **City clerk.** The common council shall appoint to hold office during its pleasure, a city clerk, who shall attend the meetings of the common council, keep a journal of its proceedings and discharge such other duties as may be prescribed by this chapter or by law or ordinance. He shall appoint to hold office during his pleasure, except as otherwise provided by law, such subordinates as may be prescribed by the board of estimate and contract. It shall be the duty of the said clerk to transmit to the head of each department and clerk of each board copies of all ordinances in any manner affecting any of the matters of which any such department or board shall have jurisdiction. He shall have the custody of the city seal and shall be the clerk to all boards unless otherwise provided by law or by the board of estimate and contract, or by this chapter. The city clerk shall be ex-officio, a commissioner of deeds.

§ 35. **Meetings.** The common council shall hold regular meetings on the second and fourth Tuesdays of each month, or if these days be holidays, then on the next days. The mayor, or the president of the common council, or a majority of its members may call a special meeting of the common council by causing a written notice thereof, specifying the objects of the meeting, to be served by the city clerk upon each member personally at least six hours before the time fixed for such meeting, or by mail directed to his place of residence or place of business at least twenty-four hours before the time fixed for the meeting.

§ 36. **Powers.** The common council shall determine the rules of its own proceedings and be the judge of the election, returns, and qualifications of its members. Its meetings shall be public and its records open to public inspection, and a majority of all its members shall constitute a quorum to do business. The common council may compel the attendance of absent members at any meeting properly called, and may punish or expel a member for disorderly conduct, for a violation of its rules or for official misconduct, or declare his seat vacant by reason of absence, provided such absence has continued for a space of two months; but no expulsion shall take place and no vacancy on account of absence be declared except by a vote of a majority of all the members of the common council nor until the delinquent member has had an opportunity to be heard in his defense. If a vacancy shall occur in the office of alderman, the common council shall appoint a person to fill such vacancy. The term of office of the person so appointed shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, at which a successor can be elected, and a successor for the balance of the unexpired term, if any, shall be chosen at the next city election happening not less than twenty days after such vacancy occurs. All acts of the common council shall be determined by a vote taken by a roll call of its members, and a statement of the choice of each member or the yeas and nays, if any, shall be entered upon the journal.

§ 37. **Legislative acts.** All the legislative acts of the common council shall be by ordinance, and on the passage of every ordinance, the yeas and nays of the members voting thereon shall be entered in full on the journal. The passage of an ordinance shall require the affirmative vote of at least a majority of all the members of the common council. Except by unanimous consent, no ordinance shall be passed by the common council on the same day in which it is introduced.

§ 38. **Procedure after passage of ordinance.** Every ordinance of the common council shall, immediately after its passage, be separately typewritten or printed and signed by the president of the common council and attested by the clerk. The clerk shall thereupon present the same to the mayor. If the mayor approve it, he shall sign it and return it to the clerk, and the ordinance shall thereupon take effect. If he disapprove it, he shall return it to the clerk with his objections stated in writing, and the clerk shall present the same with such objections to the common council at its next regular meeting. The common council may, within thirty days thereafter, reconsider the same; if, after such consideration four-fifths of all the members of the common council shall vote to pass the ordinance, the same shall take effect notwithstanding the objections of the mayor, unless a greater number of members were necessary according to the provisions of this chapter for the original passage of the ordinance, in which case unless as many members as were requisite for the original passage of the ordinance shall vote to pass the ordinance it shall not take effect. If any ordinance shall not be returned by the mayor to the clerk within ten days after it shall have been presented to him, or if such ordinance shall be returned within such period without the mayor's approval or disapproval, the same shall take effect in like manner as if the mayor had approved and signed it. If any ordinance presented to the mayor contains several items of appropriation of money or embraces more than one distinct subject, the mayor may approve the provisions relating to one or more items or one or more subjects and disapprove the others. In such case those items or subjects which he shall approve shall take effect and he shall append to the ordinance at the time of signing it a statement of the items or subjects which he disapproves and said items or subjects so disapproved shall not take effect. He shall return to the clerk a copy of such statement and the items or subjects disapproved may be separately reconsidered by the common council and shall only become effective if again passed by it as above provided. All the provisions of this section in relation to ordinances disapproved by the mayor shall apply in cases in which he shall disapprove any item or subject contained in an ordinance appropriating money or embracing more than one distinct subject.

§ 39. **Record of ordinances.** Every ordinance shall, upon its taking effect as herein provided, be recorded in a book kept for that purpose by the clerk. Such records shall include the signature of the president, attestation of the clerk and the mayor's written approval, or in case of his disapproval, a memorandum of its passage over his veto; or in case the ordinance took effect

because he failed to approve or disapprove and return within ten days, then a memorandum to that effect. Such record or a certified copy thereof shall be presumptive evidence of the passage of the ordinance and of the facts certified. The original ordinances for each year shall be bound together and kept in the custody of the clerk.

§ 40. **Administrative code.** The common council shall by ordinances not inconsistent with this chapter or with other laws of the state, regulate the powers and duties of city officers and departments, such ordinances to be known as the "Administrative Code of the City of Mount Vernon;" but no ordinance shall be passed interfering with the exercise of the executive functions of the officers, departments, and boards of the city, as provided in this chapter or otherwise by law. The council shall have power and it shall be its duty by ordinance to designate the different rooms and offices in city hall, or in any building used as such, to be occupied by the various courts, officers, boards and departments of the city.

§ 41. **Special lighting districts.** The common council may, by ordinance, establish a special lighting district or districts for the purpose of ornamental street lighting, and from time to time may alter or extend the same.

§ 42. **Alteration of grades and names of streets.** The grade of any street shall not be fixed or established except by direction of the common council. The grade of a street heretofore or hereafter legally established shall not be changed, except by direction of the common council, and except also upon compensation for damages done, to be ascertained in and by proceedings provided by law for ascertaining damages for lands taken for the opening of streets. The common council shall not alter the name of any street except by ordinance, and unless the majority of the owners of property abutting on said street shall petition therefor. No ordinance altering the name of any street shall be passed by the common council until such ordinance shall have been published at least once in each of two successive weeks in the official paper or papers.

§ 43. **Apportionment of city's expense of improvements.** The common council may, by ordinance approved by the board of estimate and contract, fix and determine the amount and proportion of the expense which shall be borne by the city at large of any public improvement. The amount and proportion of the expense of such improvements which shall be borne by the city at large shall be included in the budget and raised by tax the same as other general city charges, or may be borrowed and raised by the city by the issue of bonds in accordance with the provisions of this chapter, as shall be determined by the board of estimate and contract. An amount sufficient to pay any such bonds, when due, together with the accrued interest thereon, shall be included in the tax budget and raised by tax the same as other general city charges and such bonds as they mature, together with the interest thereon, shall be paid out of the moneys so raised by tax. The proportion of the expenses which is not borne by the city shall be assessed and charged upon the property affected by such improvement in the form and manner provided by law or ordinance.

§ 44. **Discontinuance of streets.** Whenever the common council shall contemplate the discontinuance of any street, it shall cause a notice to be published for ten days in the official paper or papers of the city of its intention so to do and that all persons interested may be heard in reference thereto at a time stated in such notice. If it shall be determined to discontinue the street and any person shall claim to be damaged by such discontinuance, such alleged damages, unless agreed to by the commissioner of public works and approved by the board of estimate and contract, must be ascertained and determined in the manner provided by law for ascertaining damages for lands taken for the opening of streets. An ordinance discontinuing any street shall require the affirmative vote of the majority of all the members of the common council.

§ 45. **Designation of official papers; official printing.** At the first meeting of the common council for the purpose of organization, as provided herein, it shall designate not more than two newspapers published in the city to be the official paper or papers of the city. The common council may, by a majority vote of all its members, determine to designate but one daily official paper, in which case it shall designate but one daily official paper, and the daily paper receiving the highest number of votes shall be the official paper for one year and until a successor is designated. Such paper or papers shall have been published in the city of Mount Vernon for at least one year and shall have been entered as second class matter with the United States post office department. Unless the common council shall so determine to designate but one official paper, it shall designate two daily official papers, and each member shall be entitled to vote for but one paper, and the two papers having the highest number of votes shall be the official daily papers for one year and until a successor or successors shall be designated. Such official daily paper or papers shall publish such matters and in such form as shall be prescribed by statute or otherwise by general ordinance of the common council. In case an official paper shall refuse or fail to act or perform as such, the common council may in its discretion as hereinbefore provided, designate a successor. All bills and accounts for publication in daily official papers and all city printing and advertising shall be a city charge, and shall be paid by the comptroller in the regular manner. The common council may, by general ordinance, prescribe the form in which the proceedings and reports of the city officers, boards and departments shall be issued, and the printing and binding of the same shall be performed under contract awarded as in the case of other city contracts.

§ 46. **Appropriations.** No appropriations of money shall be made for any purpose except by ordinance specifying each item, the amount thereof, and the department or specific purpose for which the appropriation is made.

§ 47. **Disposition of real estate; franchises.** No ordinance shall be passed making or authorizing a sale or lease of city real estate or of any franchise belonging to or under the control of the city except by a four-fifths vote of all the members of the common council. In case of a proposed sale or lease of real estate or of a

franchise, the ordinance must provide for a disposition of the same at public auction to the highest bidder, under proper regulations as to the giving of security, and after the public notice published once each week for three weeks in the official paper or papers. A sale or lease of real estate or a franchise shall not be valid or take effect unless made as aforesaid and subsequently approved by the board of estimate and contract. No franchise shall be granted or be operated for a period longer than fifty years. The common council may, however, grant to the owner or lessee of an existing franchise, under which operations are being actually carried on, such additional rights or extensions in the street or streets in which the said franchise exists, upon such terms as the interests of the city may require, with or without an advertisement, as the common council may determine; provided, however, that no such grant shall be operative unless approved by the board of estimate and contract, and also by the mayor.

§ 48. **Election districts.** The common council shall, on or before the first day of July in each year, whenever necessary so to do, divide the city into election districts in accordance with provisions of the election law of the state of New York, as from time to time amended.

§ 49. **Water rates.** Whenever the city shall own and operate a system of water works the common council shall by ordinance provide for the levy and collection of a frontage tax on real estate and establish the rates to be charged and paid annually for the supply of water in buildings, establishments, trades, and private houses and shall provide for the use of water meters in ascertaining the amounts to be charged for water supply service.

§ 50. **Investigations of public officers.** The common council shall have power to investigate all city officers and departments and shall have access to all records and papers kept by every city officer or department, and shall have power to compel the attendance of witnesses and the production of books, papers or other evidence at any meeting of the common council or of any committee thereof, and for that purpose may issue subpoenas to be signed by the president of the common council.

§ 51. **Penalties.** Any member of the common council who shall knowingly or unlawfully disregard any provision of law applicable to the members thereof, or who shall vote for any ordinance or measure in violation of law, or any appropriation unauthorized by law or in excess of the amount authorized by law, or for any illegal or injurious disposition of corporate property, rights or privileges, shall be guilty of a misdemeanor and liable to the punishment and penalty prescribed therefor, and every member voting in favor thereof shall be individually liable to refund the amount to the city at the suit of any taxpayer.

§ 52. **Penalties for violation of ordinances.** Any person violating an ordinance of the common council shall be guilty of a misdemeanor, and the common council may provide therein or by general ordinance that any person guilty of such violation shall

be liable to fine which shall not exceed one hundred and fifty dollars in amount, or to imprisonment not exceeding one hundred and fifty days, or to both such fine and imprisonment, or such ordinance may provide for a penalty not exceeding five hundred dollars, to be recovered by the city in a civil action. The city may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of any ordinance of the common council, notwithstanding that the ordinance may provide a penalty for such violation.

ARTICLE VI.

MAYOR.

Section 60. Executive power.

61. Acting mayor.
62. Secretary and assistants.
63. Duties of the mayor; messages.
64. Consultation with heads of departments; public hearings.
65. Execution of deeds and contracts; signature of checks and warrants.
66. Examination of books and accounts.
67. Additional powers and duties; special policemen.

§ 60. **Executive power.** The executive power of the city is vested in the mayor and in such executive officers and departments as are created by this act or may be created by law.

§ 61. **Acting mayor.** Whenever there shall be a vacancy in the office of mayor, or whenever by reason of sickness or absence from the city the mayor shall be prevented from attending to the duties of the office, the president of the common council shall act as mayor and possess all the rights of the mayor during such period of disability or absence. In case of a vacancy in the office of mayor, he shall so act until noon of the first day of January next succeeding the election at which the mayor's successor shall be chosen. It shall not be lawful for the president of the common council when acting as mayor in consequence of the absence or sickness of the mayor to exercise any power of appointment or removal from office unless such sickness or absence shall have continued for a period of sixty days.

§ 62. **Secretary and assistants.** The mayor shall appoint a secretary and such other assistants as may be prescribed by the board of estimate and contract.

§ 63. **Duties of the mayor; messages.** It shall be the duty of the mayor to see that the city officers and departments faithfully perform their duties; to maintain peace and good order within the city; to take care that the laws of the state and the ordinances of the common council are executed and enforced within the city; to communicate by written message to the common council at a regular meeting in January and at such other times as he may deem proper, a statement of the finances and general

condition of the affairs of the city with such recommendations in relation thereto as he may deem proper; to give such information in relation to the same as the common council may from time to time require; and to call a special meeting of the common council whenever in his judgment it is required by public necessity.

§ 64. **Consultation with heads of departments; public hearings.** The mayor shall call together the heads of the city departments for consultation and advice upon the affairs of the city on the second Monday of each month, or in case that day shall fall upon a legal holiday, then on the day following, and at such other times as he may deem advisable and necessary. At such meetings he shall call upon the heads of the departments to submit to him such reports upon the subject matters under their control and management as he may deem proper. At such meetings the mayor shall receive complaints and suggestions made by residents of the city or owners of taxable property therein concerning the conduct of its administrative departments, the performance of public contracts, the preservation of public property, the construction, repair and maintenance of streets, the condition of public utilities, the care of parks, playgrounds and sidewalks, and the reform or improvement in efficiency of its departmental business methods, or any other matter relating to the welfare and good government of the city. He may grant public hearings upon such complaints and suggestions, and may in his discretion report to the common council any of such complaints or suggestions and propose legislative action thereon. At such meetings rules and regulations shall be adopted for the harmonious, systematic and efficient administration of the affairs of the city, not inconsistent with law or ordinance. The mayor's secretary shall be the clerk and keep the records of such meetings.

§ 65. **Execution of deeds and contracts; signature of checks and warrants.** The mayor shall, on behalf of and in the name of the city of Mount Vernon, countersign all checks issued by the comptroller and execute all deeds and contracts made by the city and shall cause to be affixed thereto the city seal.

§ 66. **Examination of books and accounts.** The mayor shall have authority to examine the books and papers of any officer, employee or department of the city at all times and as often as he may deem proper to appoint one or more competent persons to examine, without notice, the accounts of any city officer or department, and the money, securities and property belonging to the city in the possession or charge of any officer or department and to report the result of such examination to the common council; and he may administer oaths to witnesses and take affidavits in all cases relating to the affairs of the city and its officers and employees. In making such examination, he may issue subpoenas for the appearance of witnesses and the production of books and papers.

§ 67. **Additional powers and duties; special policemen.** The mayor shall have such other powers and perform such other

duties as may be prescribed in this chapter or by other laws of the state or by ordinance of the common council not inconsistent with law. In case of riot or conflagration or other public emergency requiring it, the mayor shall have power to appoint such number of special policemen as he may deem necessary to preserve the public peace. Such special policemen shall be under the sole control of the regularly appointed and constituted officers of the police department. They shall have power to make arrests only for public intoxication, disorderly conduct or other offenses against peace and good order. In case of riot or insurrection, he may take command of the whole police force.

ARTICLE VII.

DEPARTMENT OF ESTIMATE AND CONTRACT.

Section 70. Personnel of the board of estimate and contract,

71. Determination of positions and salaries.
72. Designation of depositaries of city funds.
73. Contracts.
74. Proposals.
75. Contracts for paving.
76. Contracts for lighting.
77. Limitation on contracts and expenditures.
78. First departmental estimates.
79. Fiscal year; departmental estimates.
80. The first annual estimate.
81. Annual estimate.
82. First tax budget.
83. Tax budget.
84. First annual appropriations.
85. Annual appropriation.*

§ 70. **Personnel of the board of estimate and contract.** There shall be a board of estimate and contract, which shall consist of the mayor, the comptroller, and the president of the common council. Whenever the president of the common council becomes acting mayor, the president pro tempore of the board of aldermen shall be a member of the board of estimate and contract. The mayor shall be president of the board. The purchasing agent shall keep a journal of all proceedings thereof, and shall perform such additional duties as may be required by the board, or by law or ordinance of the common council.

§ 71. **Determination of positions and salaries.** The board of estimate and contract, except as otherwise provided by law, shall have authority to fix the salaries or compensation, and determine the positions and numbers of all city officers and employees of each office, board and department.

§ 72. **Designation of depositaries of city funds.** The board of estimate and contract before designating depositaries for any city funds, shall give reasonable notice to all incorporated banks

* So in original. [Does not conform to section heading.]

and trust companies in the city and to such incorporated banks and trust companies in New York city or elsewhere within the state of New York as it shall deem advisable; said board shall designate as depositaries of city funds one or more such banks or trust companies in the city and may, in its discretion, designate one or more in New York city or elsewhere within the state of New York. Not less than two depositaries shall be designated for the city funds and one or more for the sinking fund. Before such banking corporation or trust company shall receive any money as a loan or on deposit as aforesaid, it shall enter into a bond to the city in such form and in such penal sum as may be fixed by the board of estimate and contract, with two or more sufficient sureties or a surety company, as surety to be approved by the mayor, conditioned for the delivery of all moneys so loaned or on deposit to the comptroller of the city, or to any other person, corporation or association authorized by law to receive the same, or any part thereof, and for the faithful performance of any agreement entered into with the city, which bond, when so approved and indorsed by the mayor, shall be recorded in the office of the clerk of Westchester county.

§ 73. **Contracts.** Except as otherwise provided by law, it shall be the duty of the board of estimate and contract, after public notice and in accordance with regulations to be prescribed by general ordinance of the common council, to let to the bidder whose bid is deemed by the board of estimate and contract to be the most advantageous to the city and who will give security therefor, all contracts for the performance of any work or for the supply of any material required by or for the use of any officer, board, body or department of the city, in all cases where the expense of such work, or materials, or both, shall exceed the sum of five hundred dollars, unless by ordinance of the common council adopted by a vote of a majority of all the members, and approved by the board of estimate and contract, it is determined to be impracticable to procure such work or materials or both by contract, in which case said ordinance shall designate the officer, board or department to perform such work or purchase such materials. In case of public emergencies involving accident or other injury by which the heating or plumbing of any of the public buildings or any of the fire or water works apparatus shall become disabled, the commissioner having jurisdiction thereof shall cause repairs thereto to be made without a letting by contract upon filing with the board of estimate and contract a certificate, approved by the mayor, showing such emergency and the necessity for such repairs. The board shall have power to reject all bids or proposals if in its opinion the lowest bid or proposal is excessive. The said notice shall describe the work and materials for which contracts will be let and the day and hour and place of the meeting of the board at which proposals therefor will be opened. Specifications for the performance of any work and for the supply of any materials shall be prepared and set forth with sufficient detail to inform all persons proposing to bid therefor of the nature of the work to be done and of

the materials to be supplied, and written or printed copies thereof shall be delivered to all applicants therefor. Every contract for a public improvement shall be based upon an estimate of the whole cost thereof, including all expenses incidental thereto and connected therewith, to be furnished by the proper officer, board or department having charge of such improvements. No bid or proposal shall be received or contract awarded, other than for a local improvement or work to be performed by the city, which involves the construction or maintenance of any structure, erection, obstruction or excavation within, under, over, along or upon any street or public place within the city, unless the person to whom such contract shall be awarded shall have a franchise permitting the same.

§ 74. **Proposals.** No contract shall be let, except after the receipt of sealed bids or proposals therefor, and no bids or proposals shall be received at any time other than at a regular meeting of said board, and unless they conform to the rules of the board and the general ordinances of the common council. All bids or proposals must be endorsed by the title of the work or materials to which they relate, and the name of the bidder and his residence or business address. It shall be the duty of each member of the board to be present at the time and place mentioned in the public notice for the opening of bids or proposals, and such meetings shall be open to the public. After all the bids or proposals have been presented, but not until one-half hour after the time stated in the public notice for holding the meeting, all bids or proposals shall be opened by some member of the board or by its clerk publicly and in the presence of the bidders and other persons there present, and an abstract of all of such bids or proposals, with the prices and security offered, shall be transcribed in a book kept for that purpose, without any change, correction or addition whatever. A majority of the board need not be present when such bids or proposals are opened. The board may reject all bids or proposals received at any meeting and advertise again for new bids or proposals to be received at another meeting as above described. No person submitting, or on whose behalf a bid or proposal is submitted, nor the principal or sureties on any bond or security accompanying the same, shall have the right to withdraw or cancel any such bid, proposal, or bond until the board shall have awarded the contract for which such bid or proposal is made, and such contract shall have been duly executed. All proposals or bids submitted as provided in this chapter shall be accompanied by a certified check for at least five per centum of the amount of such bid or proposal.

§ 75. **Contracts for paving.** The common council shall, by general ordinance, prescribe, approve, and adopt the materials to be used in paving, repaving, repairing, surfacing or resurfacing the streets and public places of the city, and fix the standard of excellence and test required for each such material. The city engineer shall prepare standard specifications in accordance with

such ordinance for the performance of the work involved in such improvement with each kind of material so prescribed, approved and adopted therefor. Whenever the common council shall determine to make any such improvement, and the proceedings provided by law as preliminary thereto shall have been taken, the board of estimate and contract shall advertise for proposals for the furnishing of the materials and the performance of the work involved in such improvements, and specifications shall be prepared and proposals shall be invited pursuant to the provisions of the chapter, for the construction of such improvement with each kind of paving material so prescribed, approved and adopted by the common council. In case the expense of any such improvement is to be assessed upon the property abutting upon the street, or part thereof to be improved, and more than one kind of material is prescribed, approved or adopted therefor, the secretary of the board shall, within one week after proposals for such work have been received and opened, cause to be published in the official paper or papers for four successive days, exclusive of Sundays and holidays, a notice containing a summary statement of all such proposals. A majority of the property owners, owning not less than one-third of the feet front of property abutting on such street exclusive of city property, may present to the board of estimate and contract a petition or other writing designating the type of pavement or material desired to be used in making such improvement, the maximum price per square yard of such pavement and the maximum price per lineal foot of curb that the said property owners are willing to pay. Such petitions shall thereupon be referred to the common council and to the commissioner of public works, and it shall be the duty of the common council to report on the advisability of constructing the pavement designated in such petition, and of the commissioner of public works to report on the satisfactoriness of the type of pavement requested and the chance of securing a bid within the limitation of prices therein fixed. After receiving the reports of the common council and of the commissioner of public works upon such petition, the ordinance shall be introduced into the common council designating the street to be paved, the type of pavement to be used and the limitation of price for such work. After such ordinance shall have been before the common council for two weeks a hearing shall be held and the ordinance adopted or rejected. If such ordinance be adopted, the board of estimate and contract shall advertise for bids and shall award the contract to the bidder whose bid is deemed by the board of estimate and contract to be the most advantageous to the city. But if the bids do not fall within the price limitations so fixed, the board of estimate and contract shall reject the bids and notify the common council of their action. If no part of the expense of such improvement is to be assessed upon the property abutting upon said street, or if such expense is to be so assessed, but the property owners shall not have made a designation or shall have made more than one

designation, as herein provided, the common council shall, not later than at its next regular meeting after the expiration of ten days from the service of such notice, designate the kind of pavement or material to be used in making such improvement, and the contract for such improvement shall be awarded for the kind of pavement or material so designated by the property owners or common council as aforesaid, and to the bidder whose bid for doing the work with the kind of pavement or material so designated is deemed by the board of estimate and contract to be the most advantageous to the city. Where a street surface railroad shall be laid in any street which it is determined to improve as herein provided, the proposals and contract for such improvement shall include the improvement of the space between the tracks of such street surface railroad, the rails of such tracks and two feet in width outside of such tracks, and the work of improvement in such space shall be done at the same time and under the same supervision as the work of improvement of the remainder of such street. After opportunity to be heard has been given to the company owning or operating such street surface railroad, the board of estimate and contract may prescribe the materials to be used in improving such street within the railroad space above described. The entire expense of the improvement within such railroad space shall be assessed and levied upon the property of the company owning or operating such railroad and shall be collected in the same manner as other expenses for local improvements are assessed, levied and collected in the city; and an action may also be maintained by the city against the company in any court of record for the collection of such expense and assessment.

§ 76. Contracts for lighting. All municipal lighting may be applied pursuant to contract therefor, awarded by the board of estimate and contract as herein provided. Such contract shall cover and include the lighting and supplying of the lamps and the oil, gas, electric current, the cleaning, repair and renewal of the lamps and all the materials required in the use and care thereof. No bid or proposal for any such contract shall be received, or contract awarded therefor, unless the bidder shall, prior to the making of such bid or proposal, have a franchise under the authority of which the proposed contract can be performed. No such contract shall be advertised for or entered into for a period exceeding five years. Each bidder shall be required to furnish with each bid or proposal a certified check, payable to the order of the comptroller, in such sum as the board of estimate and contract shall prescribe, but not less than ten thousand dollars. Such sum shall be forfeited to and become the absolute property of the city in case the bidder depositing the same shall be awarded the contract and shall not execute the same and furnish a bond for the faithful performance of such contract, in the penal sum of not less than fifty thousand dollars, within thirty days after the award of such contract. Such certified check shall be returned

to the bidder if the contract be not awarded to him, or, if awarded, he shall have executed and furnished the contract and required bond.

The board of estimate and contract may contract for lighting any special lighting district or districts established or extended by ordinance of the common council for ornamental street lighting, as such board may deem proper or expedient. The amount of any contract that may be entered into for such special lighting pursuant to the provisions of this section shall be assessed ratably upon the real property in such lighting district or districts in such manner as shall be provided by an ordinance duly adopted by the common council and approved by the board of estimate and contract; and such assessments shall be levied, enforced and collected upon and between the taxable property in said city and district or districts respectively, in the same manner, by the same proceedings, at the same time, under the same penalties and by the same officers as the city taxes, charges or expenses of said city are now levied, enforced and collected. The common council shall, by ordinance, approved by the board of estimate and contract, apportion the expense that shall be borne by the taxable property in such special lighting district or districts, and the city at large; but, in no event shall the taxable property in any such special lighting district or districts, be charged with less than fifty per centum of such charges or expenses.

§ 77. **Limitation on contracts and expenditures.** Neither the board of estimate and contract nor any officer, board or department of the city, excepting as herein otherwise provided, shall create any pecuniary obligation whatever on the part of the city which shall not be payable in the current fiscal year and which cannot be discharged from the income of the same year, provided, however, that nothing herein contained shall prevent the making of contracts for lighting of the public streets, parks and places of the city for a period not exceeding five years, but the total amount of such expense of lighting the streets and parks of the city for each year shall be raised by taxation as herein provided. Any contract, verbal or written, made in violation of this section shall be null and void as to the city, and no moneys belonging to the city shall be paid thereon. Nothing herein contained, however, shall be held to prohibit the commissioner of public health from expending such sums in addition to the amount appropriated for such purpose, or incurring such debts as may be actually necessary to prevent the spread of, or suppress any contagious or infectious disease, or any epidemic in the city.

§ 78. **First departmental estimates.** On or before the first day of October in the year preceding the taking effect of this chapter, all heads of departments and officers, authorized by law or the city ordinances to control or authorize expenditures, shall furnish to the mayor estimates, in writing, of the amount of expenditures for the year beginning on the first day of January thereafter, in their respective departments and offices, including a statement of the salaries of all their subordinates, which estimates the mayor

shall lay before the common council at its first meeting thereafter, and the same shall be entered in the minutes.

§ 79. **Fiscal year; departmental estimates.** The fiscal year of the city shall commence on the first day of January. On or before the first day of October thereafter in each year, all heads of departments and officers empowered by law or by ordinance to control or authorize expenditures, shall furnish to the mayor estimates, in writing, of the amount of expenditures for the next fiscal year in their respective departments and offices, including a statement of the salaries of all their subordinates, which estimates the mayor shall lay before the board of estimate and contract at its first meeting thereafter, and the same shall be entered in the minutes.

§ 80. **The first annual estimate.** Not later than the first day of November, the common council shall make and adopt an itemized statement, in writing, of the estimated revenues and expenditures of the city for the next fiscal year, which shall be known as the first annual estimate. The estimated revenues shall contain an estimate of the probable revenues which, in the judgment of the common council, will be received by the city during such fiscal year, less the amount required to be deposited to the credit of the sinking fund, if any; a statement of the amount of the sinking fund, which, in the judgment of the common council, is available and should be applied to the payment of the principal of any bonded indebtedness of the city falling due during the said fiscal year; and a statement of all unexpended balances or estimated unexpended balances up to the date of the taking effect of this chapter, remaining to the credit of the city, or of any office, board or department thereof. The estimate of expenditures shall contain an estimate of the several amounts of money which the common council deems necessary to provide for the expenses of conducting the business of the city in each board, department and office thereof and for the various purposes, contemplated by this chapter and otherwise by law for such fiscal year; to pay the principal and interest of any bonded or other indebtedness of the city falling due during such fiscal year; and the amount of any judgments recovered against the city and payable during such fiscal year, and the probable amount necessary to defray the amount of tax to be levied in the city for state and county purposes. After such annual estimate shall have been completed and on or before November 15th, the common council shall give a public hearing to such persons as wish to be heard in reference thereto, and on or before December 1st shall make and adopt the annual estimate for the first fiscal year after this chapter takes effect.

§ 81. **Annual estimate.** Not later than the first day of November prior to the commencement of each fiscal year, the board of estimate and contract shall make and adopt an itemized statement, in writing, of the estimated revenues and expenditures of the city for such fiscal year, which shall be known as the annual

estimate. The estimated revenues shall contain an estimate of the probable revenues which, in the judgment of the board of estimate and contract, will be received by the city during the fiscal year, less the amount required to be deposited to the credit of the sinking fund, if any; a statement of the amount of the sinking fund, which, in the judgment of the board of estimate and contract, is available and should be applied to the payment of the principal of any bonded indebtedness of the city falling due during the said fiscal year; and a statement of all unexpended balances or estimated unexpended balances of the current fiscal year remaining to the credit of the city, or of any office, board or department thereof. The estimate of expenditures shall contain an estimate of the several amounts of money which the board of estimate and contract deems necessary to provide for the expenses of conducting the business of the city in each board, department and office thereof and for the various purposes, contemplated by this chapter and otherwise by law for the said fiscal year; to pay the principal and interest of any bonded or other indebtedness of the city falling due during the said fiscal year; and the amount of any judgments recovered against the city and payable during the said fiscal year, and the probable amount necessary to defray the amount of tax to be levied in the city for state and county purposes and the Bronx valley sewer assessments. After said annual estimate shall have been completed and on or before November 15th, the board of estimate and contract shall submit the same in final form to the common council with a statement, in writing, of such reasons for such estimate as it may deem proper. The common council shall, as soon thereafter as may be possible, convene and consider the said estimate. It shall give a public hearing to such persons as wish to be heard in reference thereto. After such hearing, and on or before December first, the common council shall adopt such estimate so submitted or shall diminish or reject any items therein contained, and adopt said estimate as so amended. The common council shall not have the power to diminish or reject any item which relates to salaries, the indebtedness or estimated revenues, or the sums estimated as necessary to pay the tax to be levied within the city for state and county purposes, or the sums lawfully payable within said fiscal year upon judgments; nor shall the common council increase any item for any purpose contained in said estimate.

§ 82. **First tax budget.** The amount of estimated expenditures contained in the first annual estimate adopted by the common council less the amount of estimated revenues applicable to the payment thereof, and the amount of all judgments payable prior to the tax levy, shall constitute the first tax budget.

§ 83. **Tax budget.** The amount of estimated expenditures contained in the annual estimate adopted by the common council, less the amount of estimated revenues applicable to the payment thereof, and the amount of all judgments payable prior to the tax levy, shall constitute the tax budget.

* So in original. [Should be "or".]

§ 84. **First annual appropriations.** When the common council shall have adopted the first annual estimate as provided in section eighty-one of this chapter, the same shall be entered at large in its minutes and become a part of its proceedings. The several sums estimated for expenditures therein shall be and become appropriated in the amounts and for the several departments, officers and purposes as therein specified for the ensuing fiscal year. The several sums therein enumerated as estimated revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the city and for the purposes contemplated by this chapter and otherwise by law, shall be and become applicable in the amounts therein named for the purpose of meeting said appropriations. In case the revenues received by the city exceed the amount of such revenues named in such first annual estimate, or in case there remain any unexpended balances of appropriations made for the support of the city government or for any other purpose, then such surplus revenues or such unexpended balances shall, except as otherwise provided by law, remain on deposit and be included as a part of the estimated revenues for the succeeding year. Nothing herein contained shall prevent the transfer prior to the close of the fiscal year of unexpended balances from one department, officer or purpose to another department, officer or purpose provided such transfer be authorized by resolution duly adopted by the board of estimate and contract and by the common council.

§ 85. **Annual appropriations.** When the common council shall have adopted the final estimates of the board of estimate and contract, or said estimate as amended by it, the same shall be entered at large in its minutes and become a part of its proceedings. The several sums estimated for expenditures therein shall be and become appropriated in the amounts and for the several departments, officers and purposes as therein specified for the said fiscal year. The several sums therein enumerated as estimated revenues and the moneys necessary to be raised by tax in addition thereto to pay the expenses of conducting the business of the city and for the purposes contemplated by this chapter and otherwise by law, shall be and become applicable in the amounts therein named for the purpose of meeting said appropriations. In case the revenues received by the city exceed the amount of such revenues named in said annual estimate, or in case there remain any unexpended balances of appropriations made for the support of the city government or for any other purpose, then such surplus revenues or such unexpended balances shall except as otherwise provided by law, remain upon deposit and be included as a part of the estimated revenues for the succeeding year. Nothing herein contained shall prevent the transfer prior to the close of the fiscal year of unexpended balances from one department, officer or purpose to another department, officer or purpose provided such transfer be authorized by resolution duly adopted by the board of estimate and contract and by the common council.

ARTICLE VIII.

DEPARTMENT OF FINANCE.

Section 90. Comptroller; subordinates.

91. Duties of comptroller.
92. Claims against the city.
93. Custody and management of sinking fund.
94. Temporary loans.
95. Temporary and funded debts.
96. Issue and sale of bonds and other obligations.
97. Annual financial statement.
98. Debt limit.

§ 90. **Comptroller; subordinates.** The comptroller shall be the head of the department of finance. He shall appoint, to hold office during his pleasure, except as otherwise provided by law, a deputy comptroller who shall be an accountant and shall have had at least three years' experience as a bookkeeper, and such other subordinates as may be prescribed by the board of estimate and contract. In case of the absence or disability of the comptroller, or of a vacancy in the office, the deputy shall discharge the duties of the office until the comptroller returns, his disability ceases, or the vacancy is filled.

§ 91. **Duties of the comptroller.** The comptroller shall superintend the financial affairs of the city and manage the same pursuant to law and ordinances of the common council. He shall keep a separate account with every department, and with each improvement for which funds are appropriated or raised by tax or assessment. No warrant shall be drawn by him for the payment of any claim against or obligation of the city unless it states particularly against which of such funds it was drawn. No fund shall be overdrawn nor shall any warrant be drawn against one fund or appropriation to pay a claim chargeable to another. The comptroller shall demand, collect, receive and have the care and custody of and shall disburse all moneys belonging to or due the city from every source, except as otherwise provided by law. The amount of taxes directed by the board of supervisors to be levied in the city for state purposes shall be paid on or before the fifth day of May in each year and for county purposes shall be paid by the city, one-half on or before the fifteenth day of May and the other half on or before the first day of October, and such payment shall be made to the county treasurer, or be deposited to his order in such bank in the city of Mount Vernon as he may direct. The comptroller shall deposit daily to the credit of the city all moneys of the city received by him in such banks or trust companies as shall be designated by the board of estimate and contract. The interest upon all deposits shall be the property of the city and shall be accounted for and credited to the appropriate fund. No money shall be drawn from a city depository except on check or draft and made payable to the person entitled to receive the same. Every check or draft against the city funds shall bear reference to

the claim or demand in payment of which it is issued. The comptroller shall perform such other duties as may from time to time be prescribed by law, or by ordinance of the common council, not inconsistent with the provisions of this chapter, or the laws of the state.

§ 92. **Claims against the city.** No claim against the city, except for a fixed salary, for the principal or interest on a bonded or funded debt or other loan, or for the regular or stated compensation of officers or employees in any city department, or for work performed or materials furnished under contract with the city, shall be paid, unless a claim therefor, verified by or on behalf of the claimant, approved by the purchasing agent or by the head of the department or officer whose action gave rise or origin to the claim, shall have been presented to the comptroller, and shall have been audited and allowed by him. The comptroller shall cause each such claim, upon presentation to him for audit, to be numbered consecutively and the number, date of presentation, name of claimant and brief statement of character of each claim shall be entered in a book kept for such purpose, which shall at all times during office hours be so placed as to be convenient for public inspection and examination. No claim shall be audited or paid until at least five days have elapsed after its presentation to the comptroller, and the comptroller shall not be required to audit a claim until two weeks have expired after the expiration of such period of five days. The comptroller is authorized, in considering a claim, to require any person presenting the same for audit to be sworn before him touching the justness and accuracy of such claim, and to take evidence and examine witnesses in reference to the claim, and for that purpose he may issue subpoenas for the attendance of witnesses. If the claimant be dissatisfied with the audit, he may appeal to the board of estimate and contract by serving notice of appeal in writing upon the comptroller and the common council at any time before the first regular meeting of the common council that is held after he received the comptroller's audit. If the common council or any taxpayer be dissatisfied with the audit, it or he may appeal to the same board on behalf of the city, in like manner, by serving notice of appeal upon the claimants, and the comptroller within ten days after the meeting of the common council at which such claims shall have been reported by the comptroller. The board of estimate and contract shall make rules for the procedure upon the hearing of such appeals, and the decision and audit of that board, after the hearing upon the appeal to it, shall be final and conclusive as to the amount of the claim; but if there be no appeal from the original audit it shall in like manner be final and conclusive. The comptroller and the board of estimate and contract upon an appeal of it, as herein provided, shall have authority to take evidence and examine witnesses in reference to the claim and for that purpose may issue subpoenas for the attendance of witnesses; and the comptroller and each member of the board of estimate and contract is hereby declared to be ex-officio a commissioner of deeds.

When a claim has been finally audited by the comptroller he shall endorse thereon or attach thereto his certificate as to such audit, and the same shall thereupon be filed in and remain a public record in his office. If any person shall present to the comptroller for audit a claim in the name of any person or firm other than that of the actual claimant, he shall be guilty of a misdemeanor.

§ 93. **Custody and management of sinking fund.** The comptroller shall have, under the direction of the board of estimate and contract, the custody, investment and management of any sinking funds provided for the payment or redemption of city debts. Sinking funds shall be invested only in such securities as are approved by the New York State Banking Law. All existing sinking funds are hereby continued.

§ 94. **Temporary loans.** If, when the certificate of the amount of tax to be levied in the city for state and county purposes is received from the board of supervisors, it is ascertained that a sufficient sum has not been included in the annual estimate and tax budget to defray the same, the comptroller shall recommend to the common council that a certificate of indebtedness for such an amount as will pay the deficiency be issued, and the common council on receipt of such recommendation, shall direct the issue of a certificate of indebtedness of the city for the same amount at a rate of interest not exceeding six per centum per annum, said certificate of indebtedness and interest thereon to become due and payable not later than the fifteenth day of February next succeeding the date of issuance of said certificate. The amount of said certificate of indebtedness and interest payable thereon shall be included in the annual tax budget next succeeding the date of issue of the said certificate of indebtedness. If after said certificate of the board of supervisors is received, it is ascertained that more than a sufficient amount has been included in the annual tax budget to pay the required sum, the board of estimate and contract shall deduct the surplus from its next estimate of the probable amount needed to defray the tax for state and county purposes. In order to provide funds to meet the estimated expenditures contained in the annual estimate, the common council may, by resolution, adopted by a majority vote, with the approval of the board of estimate and contract, at any time after the beginning of the fiscal year borrow money and issue from time to time temporary notes, certificates of indebtedness or other obligations to an amount which shall not exceed in the aggregate the amount of the estimated revenues of the city for such fiscal year, including both the amount to be raised by taxes and other estimated revenues, and may from time to time renew the same. Such notes or obligations, may be payable on demand or may mature not later than the fifteenth day of February next succeeding the end of the fiscal year, shall bear interest at not to exceed six per centum per annum, shall be executed in the same manner as herein provided for bonds of the city, or in such other manner as the common council may provide. They shall be negotiated by the comptroller in such manner as may be determined by the common council and shall be paid from

the taxes and other revenues in anticipation of which they are issued, but any portion remaining unpaid on the fifteenth day of February next succeeding the end of the fiscal year may to an amount not exceeding the amount of taxes of such preceding fiscal year remaining unpaid be renewed in the manner provided for their original issuance for a period of not exceeding three years.

In order to temporarily finance the carrying out of any purpose for which bonds are authorized to be issued under this act, or any other law (including the payment of interest accruing during the period of construction or making of the public improvement), the common council may, by resolution adopted by a majority vote, with the approval of the board of estimate and contract, borrow money and issue from time to time temporary notes, certificates of indebtedness or other obligations which shall state in general terms the purpose for which they are issued, and may from time to time renew the same. Such notes or obligations may be payable on demand or may mature in not exceeding one year from the date when the purpose for which they are issued has been carried out and may be subject to earlier call for payment, shall bear interest at not exceeding six per centum per annum, shall be executed in the same manner as herein provided for bonds of the city or in such other manner as the common council may provide. They shall be negotiated by the comptroller in such manner as may be determined by the common council, and shall be paid or funded from the proceeds of sale of bonds within one year after the purpose for which they are issued, has been carried out.

§ 95. **Temporary and funded debts.** Temporary and funded debts of the city, for the various purposes authorized and contemplated by this act and otherwise by law, may be created by ordinance of the common council, provided, however, that any such ordinance shall, before it takes effect, be submitted to and approved by the board of estimate and contract. Funded debts may be created for any municipal purpose, including the raising of funds to meet any deficiency in the collection of taxes heretofore or hereafter levied on property of another municipality arising from the refusal of such other municipality to pay such taxes on the ground that the property assessed for such taxes is exempt from taxation. The creation of funded and temporary debts and the refunding of existing debts shall be subject to the provisions of the general municipal law, except as otherwise herein provided. Such ordinance shall define and determine the probable life or period of usefulness of the property or improvement for which such bonds are authorized, or the indebtedness to be funded thereby was incurred, and all such bonds shall mature within the period of time so determined, which determination shall be conclusive. If the bonds so authorized be for two or more purposes the ordinance shall determine the probable average of such periods for the different purposes, based upon the amount of the proceeds to be applied to each purpose. Every funded debt refunded or created to provide for the supply of

water shall be issued in such amounts and shall fall due at such times that the principal of the same shall be fully paid in not more than twenty years after its issue, and may by ordinance creating said funded debt be made payable out of the moneys received by the city in payment for water supplied to consumers. Any bonds of the city heretofore issued, other than revenue bonds, and not payable in installments, except as hereinafter provided, may be refunded. No funded debt which is payable in installments shall be refunded, but provision shall be made for the payment of each installment and accrued interest in the year in which it shall become due by the insertion of the proper sum in the annual estimate for the year in question.

§ 96. **Issue and sale of bonds and other obligations.** All bonds of the city for whatever purposes issued other than temporary obligations, shall be advertised and sold by the comptroller. He shall cause to be published in the official paper or papers once, a notice containing a description of the bonds to be sold, the manner and place of sale and the time when the same shall be sold, or the time limited for the receipt of sealed proposals which shall not be less than five days from the first publication of said notice. On the day specified in the notice the comptroller shall publicly open the proposals and the bonds shall be sold to the person or persons whose bids are most favorable to the city, but no bonds shall be sold at less than their par value. The comptroller may reject any or all bids received. Nothing in this section contained shall be construed to prevent the comptroller, with the consent of the board of estimate and contract, from awarding any bonds at their par value in trust for any redemption or sinking fund of the city without advertising. And nothing in this section contained shall be construed to require the aforesaid notice to state the rate of interest which said bonds shall bear, the statement in such notice of a maximum rate of interest being sufficient. Where no proposals shall be received, as herein provided, for the par value of bonds and the accrued interest thereon after such advertising, the comptroller may, with the consent of the board of estimate and contract, within sixty days thereafter, award the bonds so advertised to any person for not less than their par value and accrued interest, such bonds to bear a rate of interest not greater than the maximum rate stated in said notice of sale. All bonds shall be signed in the name of the city, by the mayor, and countersigned by the comptroller. Such bonds may be issued either in fully registered form, or in coupon form with the option of the holder to have the same registered either as to principal only, or as to both principal and interest, and shall be transferable in the manner provided in the general municipal law, except that the registration thereof shall be made in the office of the comptroller upon books kept for that purpose. A list of all bonds by the city shall be kept in the comptroller's office and when any bonds are paid they shall be canceled by the comptroller.

§ 97. **Annual financial statement.** The comptroller shall, within sixty days after the close of each fiscal year, prepare and

publish in book or pamphlet form a full and accurate statement in detail of the financial condition of the city in the form and manner prescribed by the state comptroller.

§ 98. **Debt limit.** No debt shall be contracted by the city if the amount thereof together with the then outstanding debts of the city would exceed a sum equal to seven per centum of the aggregate valuation of the real property within its bounds as assessed upon the last general assessment roll, except (1) that debts incurred to provide for the supply of water and (2) certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes shall not be included in ascertaining the power of the city to become otherwise indebted. This section shall not be construed to prevent the issuing of tax certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained or to be contained in the taxes for the year in which such tax certificates or revenue bonds are issued and payable out of such taxes, nor shall this section be construed to prevent the issuing of bonds to provide for the supply of water.

ARTICLE IX.

DEPARTMENT OF PUBLIC WORKS.

Section 105. Commissioner of public works; subordinates.

106. Powers and duties.

107. Repairs of sidewalks; removal of snow and ice.

108. Performance of public work to be certified.

§ 105. **Commissioner of public works; subordinates.** The commissioner of public works shall be the head of the department of public works. He shall appoint, to hold office during his pleasure, except as otherwise provided by law, a city engineer and such other subordinates as may be prescribed by the board of estimate and contract. In case of the absence or disability of the commissioner or of a vacancy in the office, the mayor shall appoint a suitable person to discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled.

§ 106. **Powers and duties.** The commissioner of public works, subject to the provisions of law and ordinances of the common council, has cognizance, direction, and control of the construction, maintenance, alteration, repair, care, cleaning, paving, flagging, lighting and improving of the streets, highways, sidewalks, and public places of the city; of the preservation and care of shade trees; of the construction, alteration and repair of all city buildings, except schools, and of all docks and bridges belonging to the city; of all public sewers and drains in the city; of the construction, maintenance, extension, repair and care of the city water works; of the care, superintendence, management and improvement of all parks and thoroughfares belonging to the city. Except as otherwise provided by law, the commissioner shall have the supervision of, control over, and jurisdiction and authority

to make all ordinary repairs or improvements upon the streets, parks, sidewalks, crosswalks, gutters, vaults, drains, culverts, bridges and public ways and places of the city, including the cleaning, sprinkling, laying of dust with substances other than water, watering and flushing of the same, and collection and disposal of refuse, and may employ such laborers and teams and incur such expenditures as may be necessary within the limits of the appropriations made therefor. It shall be his duty to inspect the same with sufficient frequency to ascertain their condition and cause the same to be kept free from obstructions and in good condition and repair and reasonably safe for public use. The commissioner shall also have general supervision and control of all work performed under any contract of the city for local or other improvements to be performed within or upon any of the public streets, parks, ways and places, or with reference to the public works and ways within the jurisdiction of his department, including the lighting, sprinkling, laying of dust with substances other than water, watering or flushing of the streets or public places, and shall cause the same to be performed in full compliance with the provisions of any contract therefor. Except as otherwise provided by law or ordinance of the common council, the commissioner of public works has, over the streets and public places within the city, all the jurisdiction, and is charged with all the duties of commissioners of highways within the towns of the state.

§ 107. **Repair of sidewalks; removal of snow and ice.** The commissioner of public works shall have full power and authority to require the owner of property abutting upon a street to repair any sidewalk in front thereof or bring the same to true grade and to remove the snow and ice therefrom. Where the owner of such property shall fail or neglect to repair any sidewalk or bring the same to true grade for five days after written notice so to do has been served on him, either personally or by delivering same at his residence, or if he be a non-resident by mailing the same to him at his last known place of residence, or if the name of the owner or his place of residence cannot be ascertained after due diligence, by posting the same in a conspicuous place upon the premises; or where the owner of any such premises shall fail or neglect to remove snow and ice from any such sidewalk, after the same has remained thereon for more than twelve hours, and the commissioner shall have repaired such sidewalk or brought the same to grade or removed the ice or snow therefrom, a bill for the expenses incurred thereby shall be presented to the owner personally, or by leaving the same at his residence or, if he be a non-resident, by mailing the same to him at his last known place of residence, or, if the name of such owner or his place of residence cannot be ascertained after due diligence, by posting the same in a conspicuous place on the premises, and, if he shall fail to pay the same within ten days thereafter, the commissioner shall file each year immediately preceding the time for making the annual assessment roll his certificate of the actual cost of the work, together with a statement as to the property in front of

which the repairing or grading or cleaning was done, with the commissioner of assessment and taxation of the city, who shall, in the preparation of the next assessment roll of general city taxes, assess such amount upon such property, and the same shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof.

§ 108. **Performance of public work to be certified.** All public work performed pursuant to contract under the supervision or control of the commissioner shall, before it is accepted, be certified to by him to the effect that such work has been performed in a good and substantial manner with the materials required, of the quality and in the manner directed by the terms of the contract under which the same was done. Within ten days after the completion of any such work the commissioner shall file a certificate of such completion with the comptroller and with the city clerk, to be reported by him to the common council. Such certificate shall state in substance that said work has been duly examined by the commissioner and that the same has been fully performed and completed in accordance with the terms of the contract therefor.

ARTICLE X.

DEPARTMENT OF PUBLIC SAFETY.

Section 114. Commissioner of public safety; subordinates.

115. Powers and duties of commissioner.

116. Rules, orders and regulations.

117. Constitution of police and fire departments.

118. Terms of office.

119. Discipline.

120. Appeal from determination of commissioner.

121. Chief of police.

122. Powers and duties of members of police department.

123. Service of process.

124. Political activity prohibited.

125. City owner of supplies.

126. Liability of city.

§ 114. **Commissioner of public safety; subordinates.** The commissioner of public safety shall be the head of the department of public safety. He shall appoint to hold office during his pleasure, except as otherwise provided by law, a superintendent of weights and measures, a building inspector, a plumbing inspector and such other subordinates as may be prescribed by the board of estimate and contract. In case of the absence or disability of the commissioner, or a vacancy in the office, the mayor shall appoint suitable person to discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled.

§ 115. **Powers and duties of commissioner.** The commissioner shall have cognizance, jurisdiction, supervision and control of

the government, administration, disposition and discipline of the police department, fire department and of the officers and members of said departments, and shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance and direction of said departments, and the apparatus and property thereof and buildings furnished therefor, and shall have the general direction and supervision of the expenditure of all moneys appropriated to said departments. He shall also be overseer of the poor and shall have the general care, management, administration and supervision of the charities, almshouses, hospitals, houses of correction, orphan asylums and all other similar institutions, the control or government of which belongs or is intrusted to the city. He shall make regulations for the expenditure of the moneys appropriated for the support or relief of the poor and for the general supervision of such expenditures. He shall investigate fully the circumstances of all persons alleged to be destitute or without proper means of support, or without proper guardianship, or who are in danger of becoming or are a public burden in any respect; and also the circumstances of their relatives or other persons whose duty it is to relieve or maintain them or contribute to their support; also to institute and prosecute any and all actions and proceedings authorized by law to compel any and all persons liable for the care, maintenance, education or support of any such destitute or dependent persons, to contribute thereto and to indemnify the city and public against any expenditures on account thereof. He shall also prosecute any and all bonds, undertakings or recognizances given for any of the purposes herein mentioned or in any manner relating thereto. Any and all moneys recovered in any such suit, action or proceeding or otherwise paid to or received by said commissioner on account of the care, maintenance, relief, education or support of any such persons shall be deposited by the commissioner with the comptroller as a trust fund, and the same shall be applied and expended by the said commissioner for the purpose on account of which the same were paid. Any surplus remaining in said fund at the close of the fiscal year shall be treated as an unexpended balance of money appropriated for such department. The commissioner shall furnish to and file with the comptroller a monthly statement in detail of all receipts and expenditures, including the aid and relief granted by him, with the names and addresses of all recipients. He shall possess all the power and authority of overseers of the poor in the several towns of the county of Westchester and be subject to the same duties, obligations and liabilities. The commissioner and his assistants shall have the power to examine under oath any person applying for relief. He shall possess such other powers and perform such other duties as may be prescribed by law or by ordinance of the common council.

§ 116. **Rules, orders and regulations.** The commissioner of public safety shall make, adopt and enforce such reasonable rules, orders and regulations, not inconsistent with law, as may be

reasonably necessary to effect a prompt and efficient exercise of all the powers conferred and the performance of all duties imposed by law upon him or the departments under his jurisdiction. He is authorized and empowered to make, adopt, promulgate and enforce reasonable rules, orders and regulations for the government, discipline, administration and disposition of the officers and members of the police and fire departments, and for the hearing, examination, investigation, trial and determination of charges made or prepared against any officer or member of said departments for neglect of official duty or incompetency or incapacity to perform his official duties or some delinquency seriously affecting his general character or fitness for the office, and may, in his discretion, punish any such officer or member found guilty thereof by reprimand, forfeiting and withholding pay for a specified time, suspension during a fixed period or dismissal from office; but no officer or member of said department shall be removed or otherwise punished for any other cause, nor until specific charges in writing have been preferred against and served upon him, and he shall have been found guilty thereof, after reasonable notice and upon due trial before said commissioner in the form and manner prescribed by law and the rules and regulations of the departments.

§ 117. **Constitution of police and fire departments.** The police and fire departments shall, as to their membership, and component parts, remain as now constituted until the same shall be changed by action of the common council. The board of estimate and contract has power at all times to determine the number of officers and members of each of said departments and the classes and grades into which they shall be divided. The common council may pass ordinances not inconsistent with law for the government of the police and fire departments, and regulating the powers and duties of their officers and members. The commissioner shall appoint, as vacancies in said departments occur, all officers and members thereof, and classify and apportion them into grades to conform to such ordinances.

§ 118. **Terms of office.** All members of the police and fire departments, subject to the power of removal hereinafter specified, shall hold their respective offices during good behavior or until by age or disease they shall become permanently incapacitated to discharge their duties.

§ 119. **Discipline.** If a charge be made by any person against any officer or member of the police or fire departments that he has been negligent or derelict in the performance of his official duties, or is incompetent or without capacity to perform the same, or is guilty of some delinquency seriously affecting his general character or fitness for the office, the charge must be in writing, in the form prescribed by the rules and regulations of the commissioner of public safety, and a copy thereof must be served upon the accused officer or member. The commissioner shall then proceed to hear, try and determine the charge. The accused shall have the right to be present at his trial, and to be heard in per-

son and by counsel and to give and furnish evidence in his defense. All trials shall be open to the public. The commissioner has power to issue subpoenas, in his name, to compel the attendance of witnesses, and shall upon the oral application of the accused issue a subpoena on the behalf of the accused, leaving the space for the names of witnesses blank that he may fill in their names, upon any proceeding authorized by the rules and regulations of the department, and any person served with a subpoena is bound to attend in obedience to the command thereof; and the commissioner shall compel the attendance of witnesses and compel them to testify in the same manner as in the case of any officer or board authorized by law to issue subpoenas and take testimony. If the accused shall be found guilty of the charge made against him, the commissioner may punish him by reprimand, by forfeiting and withholding pay for a period not to exceed thirty days, or by dismissal from office. At any time within one year after the date of dismissal, any officer or member dismissed may make application to the commissioner for reinstatement. Such application to the commissioner for reinstatement must be in writing and contain a release of the city from all claims for back compensation. The commissioner may, in his discretion, rehear and redetermine the charges and reinstate such officer or member, with or without an allowance of the whole or part of the time since such dismissal to be applied on his time of service in the department, or may affirm such dismissal. At any time within one year after the date of resignation, any officer or member who has resigned may make application to the commissioner for reinstatement and the commissioner may, in his discretion, reinstate him, but the time between the date of resignation and reinstatement shall not apply on his time of service in the department.

§ 120. Appeal from determination of commissioner. In case any such officer or member is aggrieved by the determination of the commissioner on any trial of charges, as specified in the preceding section, he may within thirty days after the rendering of such determination, take an appeal therefrom on questions of law to the appellate division of the supreme court. An appeal taken, as prescribed herein, shall be perfected by the service of notice of appeal upon the commissioner. He shall, within ten days thereafter, make and file with the county clerk of Westchester county a complete return of the proceedings on such trial. For the use of the parties and court on such appeal, the appellant shall cause a certified or stipulated copy of said return to be printed and issued and all the rules and statutes concerning the correction and service and use of a printed case on appeal shall as far as appropriate be applicable to the correction, service and use on appeal of said records.

§ 121. Chief of police. The chief of police shall have the power and it shall be his duty to enforce all rules and regulations of the commissioner of public safety relating to the police department; to commit any person charged with a criminal offense until an examination shall be had before the proper magistrate; to ad-

minister oaths and take affidavits, in respect to all matters pertaining to his official duties, and to perform such other duties as may be prescribed by law, the commissioner of public safety, or ordinance of the common council.

§ 122. **Powers and duties of members of police department.** The members of the police department, other than surgeons, in criminal matters have all the powers of peace officers under the general laws of the state, and they shall also have the power and it shall be their duty to arrest any person found by them violating any of the penal ordinances of the city or laws of the state, and to take such person before the proper city magistrate. Such person shall be dealt with in the same manner as if he had been arrested upon a warrant theretofore duly issued by such magistrate. They shall report violations of law and ordinances coming to their knowledge in any way under regulations to be prescribed by the commissioner of public safety. They shall also have, in every other part of the state, in criminal matters all the powers of constables and any warrant for search or arrest issued by any magistrate of the state may be executed by them in any part of the state according to the tenor thereof without indorsement. They shall possess such other powers and perform such other duties as may be provided by law or ordinance of the common council.

§ 123. **Service of process.** All criminal process for any offense committed within the city, and all process to recover or to enforce any penalty for the violation of any city ordinance issued out of any court, or by any magistrate within the city, and every process, subpoena or bench warrant issued by the district attorney of Westchester county, relating to any offense committed within the city, and every process, subpoena or warrant issued by any coroner of such county in any inquest held in the city relative to the death of any person, may be served by any member of the police department.

§ 124. **Political activity prohibited.** No officer or member of the police department shall be a member of or delegate to any political convention, nor shall he be present at such convention except in the performance of duty relating to his position as such officer or member. He shall not solicit any person to vote at any political primary or election, nor challenge, nor in any manner attempt to influence any voter thereat. He shall not be a member of any political committee. Any officer or member violating any provision of this section shall be dismissed from office.

§ 125. **City owner of supplies.** The city shall continue to be the owner of supplies furnished to any poor person or applicant for relief until the same are consumed. If any person to whom the same shall be furnished shall sell or exchange the same for money or intoxicating liquors or in any way dispose of the same other than in a manner directed, such conduct shall be deemed a misdemeanor.

§ 126. **Liability of city.** Nothing contained in this chapter shall be deemed to make the city liable for the support or relief of any poor person when it is not otherwise so liable.

ARTICLE XI.

DEPARTMENT OF PUBLIC HEALTH.

- Section 132. Commissioner of public health; subordinates.
133. Powers and duties.
134. Sanitary code.
135. Inspection of public buildings.
136. Approval of plans for sewers and drains.
137. Violations and penalties.
138. Existing regulations.
139. Appointment of experts.
140. Appeals from orders of commissioner of public health.
141. Actions to restrain nuisances.
142. Duty in case of peril to public health.
143. Enforcement.

§ 132. **Commissioner of public health; subordinates.** The commissioner of public health shall be the head of the department of public health. He shall appoint, to hold office during his pleasure, except as otherwise provided by law, such subordinates as may be prescribed by the board of estimate and contract.

§ 133. **Powers and duties.** The commissioner of public health shall exercise all the powers and be charged with all the duties now or hereafter conferred upon or required of the local health officer by the laws of this state so far as the same pertain to cities, except as limited or extended by the provisions of this chapter and shall also possess such powers and perform such duties as may be prescribed by ordinance of the common council or otherwise by law.

§ 134. **Sanitary code.** The commissioner of public health shall formulate, adopt, promulgate, and enforce complete rules, regulations, orders and directions for the security of life and health in the city, which shall not be inconsistent with the state sanitary code enacted by the public health council. Such rules, regulations, orders and directions shall be known as the Sanitary Code of The City of Mount Vernon. The commissioner of public health, in conjunction with the plumbing inspector, shall formulate, adopt and promulgate rules and regulations for plumbing and drainage which shall govern the same. Such rules and regulations shall be included in and constitute a part of such sanitary code. Before such rules and regulations shall take effect they shall be approved in writing by the mayor. Such sanitary code shall be a subdivision of the administrative code of the city, and may be published as a part thereof.

§ 135. **Inspection of public buildings.** The commissioner of public health and building inspector may inspect and advise as to the proper heating, ventilation and drainage of public buildings under the control of the city or any of its departments, and in case any such building is in use or in process of erection without,

in the opinion of either, proper arrangements for heating, ventilation or drainage, he shall, subject to the right of appeal herein provided, stop the use or the erection of such buildings, direct such arrangements to be made and restrain further work upon the building until they are made.

§ 136. **Approval of plans for sewers and drains.** All plans for sewers and drains shall be submitted to the commissioner of public health for his approval before contracts are let for the construction of the same, and in case he shall disapprove the same, such sewers and drains shall not be constructed. The commissioner has power, subject to the right of appeal herein provided, to stop the construction or use of drains and sewers which are not properly constructed or properly used or which are not in accordance with plans previously approved and adopted.

§ 137. **Violations and penalties.** The sanitary code may provide for specific penalties for any violation thereof not exceeding one hundred dollars for each offense. Except where specific penalty is so provided, any person, for the violation of or non-compliance with any provision of the sanitary code or of any rule, regulation, order or special direction duly made thereunder or authorized by this chapter, shall forfeit and pay to the city a penalty in the sum of one hundred dollars for each and every offense. All suits and proceedings authorized by this chapter or to recover any penalty provided for in the sanitary code, or by this chapter, shall be brought by and in the name of the city, but no fees or costs shall be demanded or recovered from the commissioner of public health or any officer of the department of public health, in any such suit or proceeding or action. Any person who shall wilfully violate, neglect or refuse to comply with any provision or requirement of this chapter, or of any provision of such sanitary code, or for any rule, regulation, order or special direction duly made or of any rule, regulation or order thereunder as authorized by this article shall, in addition to the penalty or penalties herein, be guilty of a misdemeanor.

§ 138. **Existing regulations.** The existing sanitary code of the city and all rules, regulations and special directions heretofore duly formulated, adopted and promulgated by the board of health, shall continue in full force and effect, except as the same may be revised, altered, amended or annulled from time to time as provided in this article.

§ 139. **Appointment of experts.** The commissioner of public health, with the consent of the mayor and subject to the approval of the board of estimate and contract, may temporarily employ such health and sanitary experts as may be necessary at a compensation to be fixed by the board of estimate and contract.

§ 140. **Appeals from orders of commissioner of public health.** Any person aggrieved by an order, decision or direction of the commissioner of public health may appeal therefrom to the mayor who may affirm, reverse or modify the order, decision or direction appealed from. Such an appeal may be made by serving on the commissioner of public health a written notice of appeal within

two days, Sundays and legal holidays excepted, or within such further time as shall be allowed by the mayor after the appellant received notice of the order, decision or direction appealed from. Within two days after receiving such notice of appeal, Sundays and legal holidays excepted, the commissioner of public health shall make a written return to the mayor of the facts and evidence on which such order, decision or direction is founded. Upon receipt of such return, or if no return be made within the time specified, the mayor shall forthwith proceed to hear and determine the matter. Upon such appeal the mayor need not be confined to the evidence contained in the return but in his discretion may take additional evidence. Until the decision of the appeal is made, the order, decision or direction appealed from shall not be suspended unless the mayor by an order in writing shall so direct, which order shall be filed forthwith in the office of the commissioner of public health. In case of failure to sustain the appeal, the mayor may in his discretion impose costs not exceeding ten dollars upon the appellant.

§ 141. **Actions to restrain nuisances.** The commissioner of public health is authorized, by and with the advice and consent of the corporation counsel, in the name of the city to maintain actions to restrain the threatened performance or the continued performance of any act contrary to his orders, directions, decisions or ordinances, and to restrain and abate nuisances, and for the purpose of obtaining a temporary injunction in any such action no undertaking shall be required.

§ 142. **Duty in case of peril to public health.** In case of great and imminent peril to the public health of the city, it shall be the duty of the commissioner, with the sanction of the common council, if it be practicable to convene that body for prompt action, or if not, with the approval of the board of estimate and contract, to take such measures and to do, order or cause to be done such acts and to make such extraordinary expenditures in excess of the sum appropriated to the department of public health as provided by law for the preservation and protection of the public health as he may deem necessary and proper. Such peril to public health shall be deemed to exist only when and for such period as the commissioner, the board of estimate and contract, and the common council shall so determine.

§ 143. **Enforcement.** The commissioner of public safety shall whenever requested in writing by the commissioner of public health, with the approval of the mayor, detail such number of regular policemen as shall be specified in such request who shall while so detailed serve under the direction of the commissioner of public health.

ARTICLE XII.

DEPARTMENT OF LAW.

Section 147. Corporation counsel; assistant; subordinates.

148. Powers and duties.

149. Cost.

Section 150. Payment over of collections; docket.

151. Certification and approval of contracts and conveyances.

152. Compromise of claims.

153. Employment of counsel.

154. Foreclosure of tax liens.

155. Judgments in tax foreclosures.

156. Procedure in tax foreclosure.

157. Costs in foreclosure action.*

158. Limitations.

159. Pending proceedings.

160. Judgments against the city.

161. Police to aid corporation counsel.

§ 147. **Corporation counsel; assistant; subordinates.** The corporation counsel shall be the head of the department of law. He shall appoint, to hold office, during his pleasure, an assistant corporation counsel and such other subordinates as may be prescribed by law, by this chapter, or by the board of estimate and contract. In case of the absence or disability of the corporation counsel, or of a vacancy in the office, the assistant may discharge the duties of the office until the corporation counsel returns, his disability ceases or the vacancy is filled.

§ 148. **Powers and duties.** The corporation counsel shall be and act as the legal adviser of the common council, of the mayor, and of the several officers, boards and departments of the city. He shall appear for and protect the rights and interests of the city in all actions, suits and proceedings brought by or against it or any of the city officers, boards or departments, and such officers, boards or departments shall not employ other counsel. He shall attend to all the law business of the city and discharge such other duties as may be prescribed by law or ordinance of the common council.

§ 149. **Costs.** Neither the corporation counsel, his assistant nor any of his subordinates shall receive any fee or compensation of any kind for services rendered in an official capacity, other than the salary fixed by law or by the board of estimate and contract.

§ 150. **Payment over of collections; docket.** The corporation counsel shall pay over at once to the comptroller all moneys collected by him for or in behalf of the city, including fines and penalties; and he shall annually, on the thirty-first day of December in each year, file with the mayor of the city an inventory of all the books and property belonging to the city in his custody. He shall keep a docket in which he shall enter at length all actions and proceedings in which he shall appear for the city, and which docket shall be shown at all times the condition of all such actions or legal proceedings.

§ 151. **Certification and approval of contracts and conveyances.** No written contract providing for the payment of five hundred dollars or more, entered into by the city or any of its officers, boards or departments shall become effective or be acted under

* So in original. [Does not conform to section heading.]

until there shall be endorsed thereon by the corporation counsel, or his assistant a certificate to the effect that the city officer, board or department which has executed the same on behalf of the city, had authority and power to make such contract, and that such contract is in proper form and properly executed; he shall approve all deeds, conveyances, leases and abstracts of title affecting property acquired, conveyed to or leased by the city.

§ 152. **Compromise of claims.** The corporation counsel shall, whenever he considers that the interests of the city will be subserved thereby, enter into an agreement in writing, subject to the approval of the board of estimate and contract, to compromise and settle any claim against the city; and the amount shall constitute a valid obligation against the city; and the amount therein provided to be paid shall, with interest thereon from its date, be included in the next city tax budget; and be collected and paid the same in all respects as a judgment against the city.

§ 153. **Employment of counsel.** The corporation counsel, with the written consent of the mayor, may employ counsel and experts at such compensation as may be agreed upon by the board of estimate and contract, to assist him in the argument and conduct of important cases or proceedings in which the city is interested or a party.

§ 154. **Foreclosure of tax liens.** Whenever any unpaid taxes and assessments levied against any property in the city and remaining unpaid more than three years shall have been certified by the comptroller to the corporation counsel as hereinafter provided, the corporation counsel shall forthwith bring an action or actions in a court of record having jurisdiction of actions for the foreclosure of mortgages in the name of the city for the foreclosure of the lien of such unpaid tax or taxes and assessment or assessments upon such property. Such action or actions shall be brought and presented in the same manner as is provided for the foreclosure of mortgages and the provisions of law relating to actions for the foreclosure of mortgages shall apply to such actions.

§ 155. **Judgments in tax foreclosures.** A conveyance upon a sale made pursuant to the final judgment in an action brought under this article for the foreclosure of the lien of the tax or assessment shall vest in the purchaser all the right, title and interest or equity of redemption in and to said premises so sold of all the parties to said action and of all parties claiming under them, or any of them, whose conveyance or encumbrance is executed or recorded subsequent to the filing of the notice of pendency of action.

§ 156. **Procedure in tax foreclosure.** Separate taxes or assessments against the same lot or parcel of land so certified to the corporation counsel may be foreclosed in one action, and where several lots or parcels of land are owned by the same person or persons, corporation or corporations, separate tax liens upon separate lots or parcels of land so owned may, at the option of the corporation counsel, be foreclosed in one action. All taxes and assessments due the city with the interest, fees, penalties and

other lawful charges thereon, and which are a lien upon the lands sold, and all sums which the city may theretofore have paid for the purchase of the same lands at any prior sale for the non-payment of taxes or assessments thereon made under any provision of law existing at or prior to the time of the passage of this act, and for which the city may hold a certificate or lease, with interest at the rate of eight per centum per annum from the date of every such prior sale, respectively, and all expenses incurred thereon by the city shall be satisfied from the proceeds of the sale of said lands as far as possible, and a judgment for the deficiency, if any, must be granted against any defendant or defendants in said actions personally liable therefor; and the final judgments in said actions may direct the cancellation or satisfaction of record of any lien or liens of any party or parties to the action. No such action shall be discontinued by the court, upon motion of any defendant therein, unless it be upon condition that he pay to the city of Mount Vernon all the sums of money it would be entitled to receive in such action if it were prosecuted to judgment and sale, except that the interest and cost shall, in such event, be computed only to the date of the making of the order of discontinuance. The corporation counsel may bid for and purchase in the name of the city any lands sold upon sales under judgments in actions to foreclose tax or assessment liens.

§ 157. Costs in foreclosure actions. Costs in any foreclosure action brought under the provisions of this act shall be in the discretion of the court. In all cases where judgment is taken by default the costs, when allowed, shall not exceed ten dollars; and in no action shall costs, when allowed, exceed fifty dollars. The award of costs in any such action shall carry with it the right to recover taxable disbursements.

§ 158. Limitations. In any action or proceeding to which the city of Mount Vernon, or any of its officers, is a party, and in which it is claimed that any tax or assessment is due and owing to the city, or in which it is sought to collect the same, the statute of limitations shall not be a bar or defense. No action shall be maintained to recover real estate sold under a judgment in an action brought by the city of Mount Vernon to foreclose the lien of a tax or assessment, nor to recover any right, title, interest or equity of redemption in or to real estate so sold, unless the action herefor is commenced within one year after the entry of judgment of foreclosure and sale. The limitation herein provided applies to and bars non-resident persons, persons temporarily absent from the state, minors, insane persons, persons in prison, and all other persons and corporations whether under disability or not.

§ 159. Pending proceedings. Nothing contained in this act shall in any way interfere with or impair the rights of the city of Mount Vernon in any action pending at the time this act takes effect to enforce the collection of unpaid taxes and assessments, pursuant to the provisions of any existing law.

§ 160. Judgments against the city. The amount of any judgment recovered against the city and payable by it, remaining unpaid, with the interest due thereon, in case the time to appeal

therefrom has expired and no appeal has been taken, or a certificate of no appeal therefrom has been given by the corporation counsel, or in case such judgment is finally affirmed, or an appeal taken and the execution thereon shall not be stayed, shall be reported to the common council immediately after the same shall have become payable, as aforesaid; and the amount thereof shall be included in the next tax budget. Such judgments shall be paid in the order of their recovery out of the moneys first paid into the city treasury on account of the annual taxes, or prior thereto, out of the temporary loans made in anticipation of the collection of such taxes. If, however, there be any moneys in the treasury to the credit of any fund derived from city revenues, other than taxation, in excess of the estimated revenues from such source, and not otherwise appropriated, sufficient to satisfy judgments against the city, the comptroller shall issue warrants for the payment of such judgments out of said funds in the order of their recovery. Until the moneys applicable to the payment of a judgment have been raised and paid into the city treasury and payment of the judgment has been refused, no execution shall issue against the city unless the amount of such judgment shall not have been included in the tax budget.

§ 161. **Police to aid corporation counsel.** It shall be the duty of every member of the police force of the city, observing or having any knowledge of an accident from which a cause of action might arise against the city, to report forthwith the fact of such accident to the chief of police who shall thereupon report the same to the corporation counsel; and upon the request of the corporation counsel, the chief of police shall detail a member of the force to aid the corporation counsel in the investigation of any such accident.

ARTICLE XIII.

PURCHASING DEPARTMENT.

- Section 165. Purchasing agent; subordinates.
166. Powers and duties.
167. Rules and regulations.
168. Power to sell.
169. Storerooms.

§ 165. **Purchasing agent; subordinates.** The purchasing agent shall be the head of the purchasing department. He shall appoint, to hold office during his pleasure, except as otherwise provided by law, such subordinates as may be prescribed by law, by this chapter, or by the board of estimate and contract.

§ 166. **Powers and duties.** The purchasing agent shall purchase and be responsible for the proper receipt and care of all materials and supplies, including those on which bids are obtained after publication of notice pursuant to law, unless the common council shall by ordinance otherwise provide, as well as those purchased without the requirement of competitive bidding, for all of the departments, boards, bureaus, and offices of the city.

§ 167. **Rules and regulations.** The common council shall make rules and regulations not inconsistent with the general laws of the state or with this chapter, prescribing the procedure, conditions, methods and practices that shall prevail in regard to all purchases of materials and supplies by the purchasing department.

§ 168. **Power to sell.** The purchasing agent may sell, under the direction of the board of estimate and contract, all property real or personal, belonging to the city, not needed for public use and authorized to be sold.

§ 169. **Storerooms.** The purchasing agent shall have charge of such storerooms and other warehouses of the city as the common council may, by ordinance, establish for the storage and safe keeping of city property.

ARTICLE XIV.

CITY COURT.

Section 173. City court of Mount Vernon continued.

- 174. Jurisdiction.
- 175. Limitations on jurisdiction.
- 176. Jurisdiction in special proceedings.
- 177. Process.
- 178. Criminal jurisdiction.
- 179. Juvenile court.
- 180. City judge.
- 181. Subordinates.
- 182. Acting city judge.
- 183. Powers of city judge.
- 184. Removal of causes of action.
- 185. Summons.
- 186. Pleadings.
- 187. Practice.
- 188. Notice of trial and of motion.
- 189. Note of issue.
- 190. Terms.
- 191. Decision.
- 192. New trials; defaults.
- 193. Rules of practice.
- 194. Motion for judgment.
- 195. Process; how directed.
- 196. Application of civil practice act.
- 197. Jury trials; summoning special jury.
- 198. Jury fund.
- 199. Jury list.
- 200. Drawing and summoning jurors.
- 201. Juror's fees.
- 202. Exemption from future service.
- 203. Fines for non-attendance.
- 204. New drawing.
- 205. City court marshal.

- Section 206.** Powers and duties of marshal.
207. Fees of marshal.
208. Deficiencies in jury fund.
209. Deputy clerk.
210. Clerk's fees.
211. Payment to comptroller.
212. Filed papers.
213. Judgment docket.
214. Costs.
215. Taxation of costs.
216. Transcripts; enforcement of judgments.
217. Findings.
218. Appeals.

§ 173. **City court of Mount Vernon continued.** The city court of Mount Vernon as now existing is hereby continued.

§ 174. **Jurisdiction.** The city court of Mount Vernon shall be a court of record and shall have jurisdiction extending to the following civil actions:

1. An action against a natural person, or against a foreign or domestic corporation wherein the complaint demands a judgment for a sum of money only, or to recover one or more chattels, with, or without damages for the taking, withholding or detention thereof.

2. Of summary proceedings authorized by the civil practice act to recover possession of real property situated wholly or partly in the city of Mount Vernon.

§ 175. **Limitations on jurisdiction.** The jurisdiction conferred by the preceding section, in any action commenced in said city court, is subject to the following limitations and regulations:

1. In an action wherein the complaint demands judgment for a sum of money only, the sum for which judgment is rendered in favor of the plaintiff cannot exceed one thousand dollars, exclusive of interest and costs as taxed; except where it is brought upon a bond or undertaking, given in an action or a special proceeding in the same court or before the city judge. Where the action is brought upon a bond or other contract, the judgment must be for the sum actually due, without regard to the penalty therein contained; and where the money is payable in installments successive actions may be brought for the installments as they become due.

2. In an action to recover one or more chattels a judgment cannot be rendered in favor of the plaintiff for a chattel or chattels, the aggregate value of which exceeds one thousand dollars.

3. The court has no jurisdiction of an action against an executor or administrator in his representative capacity.

4. The court has no jurisdiction of an action unless one of the parties thereto resides in the city of Mount Vernon, or a warrant of attachment is granted to accompany the summons and levied upon property of the defendant within the city; or the action be for the recovery of a statutory penalty or penalties by the city of Mount Vernon, or any of its officers or departments.

§ 176. **Jurisdiction in special proceedings.** The jurisdiction and power of said court in special proceedings is the same within the city of Mount Vernon as is by law conferred on the county court of Westchester county, within said county, except that said city court has no appellate jurisdiction.

§ 177. **Process.** The said court shall have power to issue process of subpoena, and thereby to require the attendance of witnesses residing or being in any part of the state, to testify in any matter, proceeding or action before said court and also to issue attachment to bring into court from any place where they shall be found, any such witnesses who shall have failed to obey the requirements of any such subpoena.

§ 178. **Criminal jurisdiction.** The city judge shall have criminal jurisdiction as follows: He shall have and possess all the powers and jurisdiction conferred by law upon recorders of cities and shall also have and possess the same jurisdiction and powers possessed by a single justice of the peace, or by two justices of the peace in towns in criminal matters. He shall have jurisdiction within the city of Mount Vernon to issue all criminal process, except as otherwise provided by law; to hear all complaints and conduct all examinations in criminal cases arising within the limits of said city; to hold courts of special sessions, with all the powers and jurisdiction of such courts; to hear and determine charges for every misdemeanor committed within the corporate limits of said city. The city judge shall have power, upon conviction for misdemeanor, to impose a sentence of imprisonment not exceeding one year, or a fine not exceeding five hundred dollars, or both such fine and imprisonment, with further imprisonment if such fine is not paid, not exceeding one day for each dollar of fine unpaid, except where a different punishment is by law prescribed for such offense. He shall have power to impose or suspend sentence or remit to probation pursuant to law. Any judgment, order or conviction made by him may be reviewed by appeal in the same manner, and with the same effect, as if the proceedings were before a justice of the peace. He shall have jurisdiction and full power to hear, try and determine all causes, proceedings or actions, civil or criminal, arising by reason of the violation of the charter, or ordinances of the city, and to enforce the payment of any fines or penalties imposed by the charter, or ordinances of the city. He shall in all things relating to the manner of procedure in his court, or in the arraignment or trial of the parties accused, be governed as far as may be by the same law as justices of the peace, or courts of special sessions in towns; and his judgments shall have the same effect, and all his proceedings may be reviewed in the same manner, and in the same courts, as is now, or may hereafter be provided by law for such review in cases of judgments and proceedings of justices of the peace, or of courts of special sessions within the towns of the state.

§ 179. **Juvenile court.** All cases involving the commitment or trial of children, actually or apparently under the age of sixteen

years, for any violation of law, shall be held and determined at suitable times to be designated therefor by the city judge separate and apart from the trial of other criminal cases, of which session a separate docket and record shall be kept. All such cases shall, so far as practicable, be held and determined in a separate court room to be known as the "Children's Court" and to be established exclusively for the examination and trial of children actually or apparently under the age of sixteen years, charged with any offense, and all such cases and cases of offenses by, or against the person of a child under the age of sixteen years, shall have preference over all other cases; and where a child is committed or detained as a witness in any case, such case shall be brought to trial or otherwise disposed of without delay whether the defendant be in custody or enlarged on bail.

§ 180. **City judge.** The city judge shall be the judge of the city court of Mount Vernon. He shall not hold any other public office, or act as referee or receiver, but shall devote his whole time and capacity, so far as the public interest demands, to the duties of his office.

§ 181. **Subordinates.** The city judge shall appoint, to hold office during his pleasure, except as otherwise provided by law, a clerk of the city court, who shall also be clerk of the court of special sessions in the city of Mount Vernon, a stenographer, a marshal and such other employees as he deems necessary for the proper conduct of the business of the city court, provided that the position of each employee has been authorized and the salary thereof fixed by the board of estimate and contract. The city judge shall be in responsible charge of all matters of the city court and shall have all authority necessary for the proper conduct of the business of said court.

§ 182. **Acting city judge.** In the event of the absence or disability of the city judge, the acting city judge shall exercise all the authority and perform all the duties of the city judge.

§ 183. **Powers of city judge.** The city judge shall have, within the city of Mount Vernon, the powers of a justice of the supreme court at chambers, and all the powers which the county judge of Westchester county has by law within said county. He shall also have the same jurisdiction and power as a justice of the peace of towns.

§ 184. **Removal of causes of action.** If it shall at any time appear by affidavit that the city judge is legally incompetent, incapacitated, or forbidden by law to sit upon the trial or hearing of any action or special proceeding pending in the city court or before him, on notice to both parties, an order shall be granted and entered with the clerk of said court removing such action or special proceeding to the county court of Westchester county, or to the county judge of said county, as may be proper, which order shall specify the cause and reason for making such removal, and a certified copy of such order must be filed in the office of the clerk of Westchester county, and thereupon it is removed into

said county court, or before such county judge, as provided in such order, and the subsequent proceedings therein must be the same as if it had been originally brought in said county court, or before the said county judge, except that the costs recovered by the successful party shall be such costs only as might have been recovered in the city court or before the city judge.

The supreme court may by an order issued at any time after joinder of issue of facts and before the trial thereof, remove to itself an action or special proceeding pending in the city court, or the purpose of changing the place of trial or hearing thereof. A certified copy of the order must be filed in the office of the clerk of said court and thereupon it is removed into the supreme court, and the subsequent proceedings therein must be the same as if it had been originally brought to the supreme court.

An order for the removal to the supreme court of an action or special proceeding, as above prescribed, can be made only upon notice, and at a special term of the supreme court held within the fifth judicial district, and in a case where an order changing in like manner the place of trial or hearing would be granted if the action or special proceeding was pending in the supreme court.

An appeal from an order made upon such motion must be taken and heard in like manner, as if the action or special proceeding was pending in the supreme court, and triable in the county of Westchester. Such an appeal from any order made upon such a motion, brings up to the appellate division of the supreme court, and thence to the court of appeals (if the order is appealable to that court), all questions which were before the special term and the appellate tribunal must dispose of the same as if they were originally presented to it.

An order to stay proceedings, for the purpose of affording an opportunity to make the application for removal, and a change of place of trial as aforesaid, may be made by any judge authorized to make an order to stay proceedings, either in the court where the action is pending, or in the supreme court and with like effect under like circumstances.

§ 185. Summons. All actions brought in the city court of the County of New York shall be commenced by the service of a summons in like form as in the supreme court, except that the time specified in the summons within which the defendant shall be required to answer the complaint, shall be six days instead of twenty. When a summons shall be issued by the clerk, unless it is accompanied by a complaint, the clerk shall endorse upon it a brief statement of the nature of the plaintiff's claim, with a statement of the amount thereof, together with the address of the plaintiff.

§ 186. Pleadings. A party to an action in said court may answer or demur to any pleading, or may reply to an answer within ten days after the service of a copy of the pleading to which he answers, demurs or replies.

§ 187. Practice. The forms of process, pleading and proceedings, and the manner of pleading and procedure prescribed by the civil practice act for actions, proceedings and remedies in the

courts of record, shall be used in said city court, as near as may be, except as otherwise provided by this chapter.

§ 188. **Notice of trial and of motion.** A notice of trial shall be served at least five days before the day named therein as the day of trial, and a notice of motion shall be served not less than two days before the time named therein for a hearing, except where the notice is served by mail, in which case the notice of trial shall be not less than seven days, and the notice of motion not less than four days. The judge of the city court may, however, by order, prescribe a shorter time for such notice for cause shown in any case.

§ 189. **Note of issue.** When any motion shall be noticed for hearing or action noticed for trial, a note of issue of such action or such motion shall be filed with the clerk at least two days before the day of the hearing or trial; and the clerk shall thereupon place the same upon the calendar for the day named. The same shall remain upon the calendar till heard, tried or otherwise disposed of by order of the court or city judge.

§ 190. **Terms.** The city court shall be open every day for transaction of business, except Sundays and legal holidays, from half-past nine in the forenoon until the city judge shall order the adjournment of the same, and any motion in said court or before the city judge may be noticed for hearing for any such day. The city judge may by rule designate terms for the trial of issues in actions in said court, not less than one in each week, and any action in said court may be noticed for trial at any such designated terms.

No process issued, or suit or proceeding pending in said city court of Mount Vernon shall be discontinued by reason that the court shall not be held on any stated day, but such process shall be deemed returnable, and such suit or proceeding shall be deemed continued to the next day on which the court shall be held.

§ 191. **Decision.** In all cases tried before the city judge without a jury he shall render and file with the clerk of said court his decision in writing within twenty days after the same shall have been finally submitted to him for determination. Should he refuse or neglect to render the decision within such time the action shall not abate, nor be deemed discontinued; but at any time after the lapse of twenty days and before the filing of such decision, either party may again notice the action for trial, and immediately file a note of issue and a new trial may thereupon be had.

§ 192. **New trials; defaults.** The said city court shall have power to grant new trials and open defaults in the same manner as such relief may be had in the other courts of record.

§ 193. **Rules of practice.** The general rules of practice adopted pursuant to the civil practice act shall apply to all proceedings and actions in said court, as far as they may be applicable, and the city judge may make such other rules for said court as are not inconsistent therewith.

§ 194. **Motion for judgment.** A motion for judgment on the answer and for like causes as allowed by the civil practice act, may be made on a notice of not less than two days.

§ 195. **Process; how directed.** Except the summons, every process and mandate shall be directed either to the sheriff of the county of Westchester, or to the marshal of the city court of Mount Vernon.

§ 196. **Application of civil practice act.** The only modifications and limitations upon the application and effect of the civil practice act in relation to actions and proceedings in said court are the provisions of this chapter.

§ 197. **Jury trials; summoning special jury.** Trial by jury shall be deemed and taken to be waived by the parties, unless such trial by jury shall be demanded at the first call of the action upon the calendar for trial after due notice of trial. But such jury trial having been demanded may be afterward waived by the party demanding the same. If a jury trial be demanded as aforesaid and not waived, and the amount involved as disclosed by the pleadings be less than two hundred dollars, either party to such action may demand the drawing of a special jury for the immediate trial of said action. The party demanding such jury trial shall deposit with the clerk a jury fee of six dollars. The clerk shall thereupon publicly draw the names of twelve persons qualified as trial jurors in said city from which to form a special jury for such case. The jurors shall be summoned and empanelled in the same manner, as nearly as may be, as in courts of justices of the peace in towns. When a special jury is so drawn as aforesaid the trial of the action may be adjourned for not more than six days to procure the attendance of a jury. The trial shall proceed before the jury so drawn in the same manner, as nearly as may be, before the court and jury at a regular jury term, except that the jury shall consist of only six members.

§ 198. **Jury fund.** The party in whose favor a verdict shall be given by the jury shall, before the entering of a judgment, pay to the clerk of the city court the sum of six dollars, which shall constitute a fund called the jury fund, out of which jurors shall be paid, with the sheriff's or marshal's fees for summoning the jury.

§ 199. **Jury list.** It shall be the duty of the commissioner of assessment and taxation of the city of Mount Vernon, on the first Monday in July in each and every year, to select from the names of residents of the city, qualified by law to serve as jurors, and legally exempt, a list of persons to serve as jurors. Duplicate copies of the persons so selected with their respective additions and place of residence shall be signed by said commissioner, and one of said lists shall be filed with the city clerk and one thereof shall be filed with the clerk of the city court. As soon as such list shall be filed with the clerk of the city court, the city judge shall give notice by publication in the official paper or papers that the jury list of said court has been filed and that on a day and hour named therein not less than seven days after the publication of said notice

he will attend at the city court room to correct the same, and on such day he shall attend and receive evidence of exemption in the same manner as authorized by courts of record, and no juror who does not then furnish proof of a legal exemption shall thereafter be allowed to claim exemption when he shall be drawn and summoned for jury duty. The names of persons found exempt by law shall be struck from the list, and the ground of exemption recorded. When the lists have been corrected and completed they shall again be filed with the city clerk and the clerk of the city court, respectively, and the said clerk of the city court shall carefully write the name, addition and residence of each of said jurors so remaining upon said lists upon ballots as near as possible of like size and color, writing one name on each ballot, and shall safely keep the same in a box to be prepared for that purpose.

§ 200. **Drawing and summoning jurors.** When the attendance of jurors in said city court shall be required the said city judge shall publicly draw, from the said box, the names of seventy-five of said jurors, in the presence of the clerk of the city court, and such others as may be in attendance, and the clerk of the city court shall enter the names thereof upon the minutes of said city court and the ballots drawn shall be destroyed.

The said city judge shall thereupon immediately issue his order in writing, either to the sheriff of the county of Westchester, or to the marshal of the city court of Mount Vernon, directing him to summon the persons so drawn to attend at the city court, at the time and place to be therein named, to try such cases as shall be given them in charge. Any action for which a jury shall have been demanded shall be tried before a jury of twelve men to be selected from those so summoned, who attend in the manner aforesaid, who shall be drawn therefor in the same manner as juries are drawn in other courts of record. Such jurors so summoned shall be required to attend for the trial of all actions in said court for which they are summoned, as the city judge may direct. The city judge may in his discretion, on application of any juror, excuse him from the whole or part of the time of service required of him and may also change the time of service of a juror to a later day during the same, or a subsequent term of the court. Each juror whose time of service is changed to a day certain, must attend at the opening of court on that day, and thereafter until discharged, without further notice. If he fails so to do, he is liable to the same punishment as if he had been personally notified by the sheriff of the said county of Westchester or the marshal of the city court of Mount Vernon to attend the term, and to be present on that day.

Jurors in the city court of Mount Vernon shall be drawn at least six days before the day when they shall be summoned, and notified to attend at least four days before the day when they shall be required to attend.

The court may order the sheriff or marshal to summon from the bystanders, or from the city at large, so many persons qualified to serve as jurors as shall be sufficient whenever a sufficient

number of jurors duly drawn and summoned do not appear or cannot be obtained to form a jury.

Whenever a panel of jurors shall have been drawn and summoned in said court, and shall thereafter be discharged, it shall be the duty of the clerk of said court to return to the jury box the names of all such jurors as have not been actually impaneled for the trial of an action, and when so returned to such box, they may again be drawn in the same manner as though such names had not been previously drawn therefrom.

§ 201. **Juror's fees.** Every juror who shall actually sit on the trial of an action in the city court shall receive the fee of twenty-five cents, to be paid to him by the clerk of the city court out of the jury fund.

§ 202. **Exemption from future service.** Each juror who shall be actually impaneled, and shall sit as juror on the trial of an action in said city court shall be entitled to a certificate under the seal of said court certifying to such fact, and such certificate shall exempt such juror from service as juror in any court held in and for the county of Westchester, for the calendar year in which he shall have served.

§ 203. **Fines for nonattendance.** When any juror shall be fined for nonattendance in said court, and an order shall have been entered, imposing such fine, it shall be the duty of the city judge of Mount Vernon, and the clerk of the city court of Mount Vernon, to issue process under the seal of said city court of Mount Vernon, the marshal of the city court of Mount Vernon or to the sheriff of Westchester county, commanding him to collect of the several persons named in the schedule thereto to be annexed, the several sums of money set opposite their names respectively, and to pay over the same to the comptroller of the city of Mount Vernon, and at the time of collecting such fines to notify such persons respectively that if they have good reason to show for remitting such fines they may show the same to the city court on any day when the said city court shall be sitting, and it shall be the duty of said judge and clerk to annex to such process a schedule containing in separate columns: First, the names of the persons fined; second, their respective residences; third, the amount of fine imposed upon each; and fourth, the cause of the fine, which schedule shall be certified by said judge and clerk to be correct abstracts of the several orders imposing such fines. The officer to whom such process is directed shall proceed to collect such fines respectively of the several persons named in such schedule by levy and sale of the personal property of such persons as upon executions against property in civil actions, and shall be entitled to collect the same fees; and in case such officer shall not find sufficient personal property of any persons so fined to raise the amount of his fee, he shall take the body of such person and detain him in custody, or commit him to the county jail until he shall satisfy such fine, in the same manner as upon execution against the body in civil cases, and he shall be entitled for his services to like fees.

§ 204. **New drawing.** Whenever the whole list of jurors whose names shall remain upon the jury list shall have been drawn for jury duty the lists may again be used in the manner aforesaid unless the commissioner of assessment and taxation shall then have filed a new list.

§ 205. **City court marshal.** There shall be a marshal of the city court of Mount Vernon, who shall, before entering upon the discharge of his duty, take, subscribe and file with the city clerk the constitutional oath of office. He shall also execute an official bond, with at least two sufficient sureties, to be approved by the city judge, in which he and his sureties shall jointly and severally agree to pay each and every person who may be entitled thereto all such sums of money as the said marshal shall become liable to pay on account of any execution or attachment delivered to him. The said bond shall be filed with the city clerk, and may be prosecuted by any person who shall suffer any loss by reason of the default or doing of said marshal in the discharge of the duties of his office. The said marshal shall, in said court, perform the same duties as are performed by sheriffs in other courts of record and shall have power to execute all process of said court in the same manner as the process in other courts of record are executed by the sheriff. The city judge may at any time require him to file new bonds, and may suspend such marshal until such bonds are approved and filed.

§ 206. **Powers and duties of marshal.** All acts to be done and performed by the sheriff may be done by the marshal of the city court, and all moneys paid by the sheriff or marshal into the court shall be paid to the comptroller to the credit of the action, and subject to the order of the court. The marshal of the city court of Mount Vernon shall have and possess the same powers in relation to all matters and proceedings in the court of special sessions of the city of Mount Vernon, and be empowered to perform the same duties therein as the sheriff of Westchester county, or any constable or policeman of said city.

§ 207. **Fees of marshal.** The said marshal shall be entitled to the same fees as the sheriff of Westchester county, for like services, to be paid by the party requiring said services, but the said marshal shall receive no fees or compensation for the service of any criminal process issued out of said city court, and it shall be the duty of the police officers of said city to execute all such process.

The marshal of the city court or the sheriff of Westchester county shall receive for summoning a jury the sum of two dollars, and for attending the court and jury in each case tried by jury, one dollar, which fees shall be paid by the clerk of said court out of the jury fund.

§ 208. **Deficiencies in jury fund.** Whenever the jury fund shall not be sufficient to pay the marshal's fees, which are payable out of such fund, the clerk of the city court shall certify to the common council the facts showing such deficiencies, and said common council shall cause to be paid, from time to time, to the

rk of the city court, by the comptroller, the amount of such deficiencies as they shall occur.

§ 209. **Deputy clerk.** The city judge may appoint a deputy clerk who shall take the constitutional oath of office, and file the same in the city clerk's office, and may then perform the duties of clerk of the city court, in the absence or disability of the clerk. He shall perform such duties, but he shall receive no fee or salary from the city.

§ 210. **Clerk's fees.** There shall be paid to the clerk of the city court the following fees: In all actions one dollar for every day in said court, and one dollar for entering judgment. The filing fee shall be paid before the action is placed on the calendar. Where the clerk issues the summons for a party appearing without an attorney, one dollar. For every transcript of judgment the clerk's fee shall be twenty-five cents.

§ 211. **Payment to comptroller.** All fees or fines paid to the city judge or to the clerk of the city court, except juror's fees, shall be paid over to the comptroller to the credit of the city of West Vernon. The clerk of the said court shall keep an account of all moneys received by him, and the same shall at all times be open for inspection of the comptroller.

§ 212. **Filed papers.** All orders, papers, undertakings and judgment-rolls in actions in said court shall be filed in the office of the clerk of said court.

§ 213. **Judgment docket.** The said clerk shall keep in his office a judgment docket book, in which he shall docket all judgments rendered in said city court.

§ 214. **Costs.** The following costs and allowances shall be recovered by the prevailing party in all actions, proceedings and appeals under this chapter.

In an action where the prevailing party who has appeared by attorney has recovered by attorney and recovered after an actual trial of the issues:

Less than one hundred dollars, ten dollars;

For one hundred dollars and less than two hundred dollars, fifteen dollars;

For every additional one hundred dollars or fractional part thereof, five dollars.

The defendant who has appeared by attorney and recovered judgment for a dismissal of the complaint, a nonsuit or for judgment on a counterclaim after an actual trial of the issues, shall be allowed the costs as is provided in subdivision one of this section, reckoned upon the amount demanded in the complaint, and if an affirmative judgment is rendered on the counterclaim, costs will be reckoned upon the amount claimed in the complaint, plus the judgment on the counterclaim.

On the granting or denial of a new trial, or any motion in an action or proceeding, an amount not exceeding ten dollars may be allowed for costs of motion.

The appellant on reversal, and the respondent upon affirmance, or the dismissal of an appeal by the county court of West-

chester county of a judgment of the city court of Mount Vernon or the city judge shall be entitled to twenty-five dollars costs; and the prevailing party on an appeal from an order shall be entitled to ten dollars costs.

5. On appeal to the appellate division of the supreme court, or to the court of appeals, the prevailing party shall be entitled to the same costs as provided by law for other appeals to such court.

6. The prevailing party, whether appearing by attorney or not, shall be entitled to his taxable disbursements.

§ 215. **Taxation of costs.** The clerk of said court shall, on two days' notice, adjust and tax the costs and disbursements of the prevailing party, and the amount shall be included in the judgment, but the same shall be subject to retaxation on motion to the city court.

§ 216. **Transcripts; enforcement of judgments.** A transcript of the docket of any judgment of the city court, when issued by the clerk of said court, under the seal of said court, may be filed in the office of the clerk of any county in the state, and such judgment shall thereupon be docketed in such county, and shall thereupon have the same effect, and may be enforced in the same manner, and the same proceedings may be taken thereon, with like effect in all respects, as if such judgment had been rendered in the supreme court and first docketed in the office of the clerk of such county.

When a transcript of the docket of any such judgment shall be filed in the office of the clerk of Westchester county, and there docketed, the same may be enforced at the election of the judgment creditor either by proceedings in the city court of Mount Vernon or before the city judge, or by proceedings before the county judge of Westchester county, or in the county court of Westchester county.

Whenever an execution against the property of a judgment debtor upon a judgment rendered in said city court shall be returned unsatisfied in whole or in part by the sheriff of Westchester county, or by the marshal of the city court of Mount Vernon, and the debtor shall reside in the county of Westchester, the same proceedings may thereupon be had before the city judge of the city of Mount Vernon, as could be taken before the county judge of the county of Westchester upon a judgment recovered in the county court of Westchester county, and upon the making in any such proceeding, by the city judge, of an order appointing a receiver of the property of the judgment debtor, a duplicate of such order be filed and recorded in the office of the clerk of Westchester county with like effect as of a similar order of the county judge of Westchester county in a supplementary proceeding wherein he had jurisdiction.

§ 217. **Findings.** In all cases tried before the city judge without a jury, if required by a party appealing from the judgment rendered therein, the city judge shall, within ten days after service upon him of a notice in writing, make and file with the clerk of the city court his findings therein of law and of fact, for the purpose of appeal.

§ 218. Appeals. Appeals from the judgments and orders rendered, entered or granted in the city court of Mount Vernon, or the city judge of Mount Vernon, may be taken as follows:

(a) From judgments in actions where a recovery of less than one hundred dollars is demanded in the complaint and from orders made in such actions in the city court of Mount Vernon, or by the city judge of Mount Vernon, of the effect described in the subdivisions of section six hundred and nine of the civil practice act, the appeal shall be to the county court of Westchester county. From judgments in actions where two hundred dollars or more is demanded in the complaint, and from the orders made in such actions in the city court of Mount Vernon, or by the city judge of Mount Vernon, of the effect described in the subdivisions of section six hundred and nine of the civil practice act, and from an order affecting a substantial right made in a special proceeding by the said city court or said city judge, appeals may be taken to the appellate division of the supreme court in the judicial department in which the city of Mount Vernon is situated. No appeal from any judgments of the city court of Mount Vernon shall be taken in any case until a motion for a new trial shall have been made, and an order granting or denying the same shall have been entered and such motion may be made before or after judgment on the judge's minutes, or upon a case and exceptions.

(b) All appeals provided for in this section must be taken by serving upon the attorney for the adverse party and on the clerk of the city court of Mount Vernon, by filing in his office a written notice to the effect that the appellant appeals from the judgment, order or from a specified part thereof; no security or undertaking shall be required to perfect an appeal from an order. To perfect an appeal in other cases except as specified in sections one hundred and seventy and five hundred and seventy-one of the civil practice act a written undertaking must be executed on the part of the appellant by at least two sureties or by a surety company to the effect that the appellant will pay all costs which may be awarded against him. Such undertaking shall be of no effect, unless acknowledged and accompanied by the affidavits of the sureties that they are worth at least the sum of two hundred and fifty dollars, and a copy thereof served on the respondent and the original filed with the clerk; and the respondent may within ten days, except to the sufficiency of the sureties, and unless they

other sureties justify on a notice of not less than five days for the city judge, as prescribed in sections eight hundred and forty-four and eight hundred and fifty-five of the civil practice act.

(c) Upon an appeal authorized by this section being taken and perfected, the clerk of the city court of Mount Vernon shall, at the expense of the appellant, forthwith certify and file with the clerk of the appellate court, a copy of the notice of appeal, judgment, order, and case, if any made and settled (which case must be made and settled as cases of appeal are made and settled in the supreme court), or, if the appeal be from an order, a copy of the notice of appeal, order appealed from, and of the papers upon which the order was granted.

(d) The appeal shall be heard upon the return thus filed, and the judgment or order appealed from may be affirmed, modified or reversed by the appellate court, as shall be just and proper, and when necessary and proper a new trial granted.

(e) The order or judgment of the appellate court shall be certified and remitted to the city court of Mount Vernon to be enforced, and judgment thereon with costs, if any, shall be entered in the city court of Mount Vernon only.

(f) From the order or judgment of the appellate division of the supreme court, on appeals taken under this chapter, an appeal must be taken to the court of appeals, if allowed by the appellate division of the supreme court, by an order made by the appellate division which rendered the determination, or at the next term after judgment is entered thereupon. Said appeal shall be taken in the same manner as provided in the civil practice act for other appeals to the court of appeals. From the order of judgment of the county court of Westchester county, on any appeal to it taken under this chapter, an appeal must be taken to the appellate division of the supreme court, in the same cases and in the same manner as provided by article forty of the civil practice act, for appeals to the supreme court from an inferior court, except that the judgment rendered or order made by the supreme court must be certified and remitted to the clerk of the city court of Mount Vernon, in whose office the judgment-roll or appellate papers must be filed, and the said judgment or order of the supreme court must be entered.

(g) Proceedings upon the judgment or order appealed from shall in no case be stayed except by giving an undertaking as required by this chapter, or by an order of the city court of Mount Vernon, or city judge, or as otherwise provided in the civil practice act.

(h) All appeals under this chapter to the county court of Westchester county must be taken within thirty days after notice, in writing, of the entry of the order or judgment appealed from. All appeals to the supreme court must be taken within sixty days after notice, in writing, of the entry of the judgment or order appealed from. All appeals to the court of appeals must be taken within the time specified in section five hundred and ninety-two of the civil practice act.

ARTICLE XV.

DEPARTMENT OF ASSESSMENT AND TAXATION.

Section 222. Commissioner of assessment and taxation; subordinates.

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tion 230. Assessment of omitted property.

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243. Notice to delinquents.

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245. Return of unpaid taxes.

§ 222. **Commissioner of assessment and taxation; subordinates.** The commissioner of assessment and taxation shall be the head of the department of assessment and taxation. He shall appoint to his office during his pleasure, except as otherwise provided by law, such subordinates as may be prescribed by this chapter or by the board of estimate and contract.

§ 223. **Powers and duties.** The commissioner of assessment and taxation shall possess all the powers conferred upon, be subject to all the obligations imposed upon, and perform all the duties pertaining to the office of assessors in towns of the state in reference to the assessment of property within the city, except as otherwise provided by law, or this chapter, and, except as otherwise provided by this chapter, shall possess all the powers conferred upon and perform all the duties formerly appertaining to the office of assessors and the board of assessors of the city of Mount Vernon. Except as otherwise provided by this chapter, he shall also perform all of the duties now provided by law in reference to the assessment of local improvements imposed according to law. It shall also be the duty of the commissioner to install scientific systems of assessment with tax maps, unit rules and such other systems and records as may be necessary, and to gather and file useful and available information that appertains to the value of property subject to his assessment. The assessment map of the city of Mount Vernon as it now exists or as it may be altered, amended, or changed, is hereby declared to be the official assessment map of the city.

§ 224. **Board of review.** The comptroller, the president of the common council and the commissioner of assessment and taxation are hereby constituted a board of review to hear and deter-

mine complaints in relation to the assessment roll provided by law.

§ 225. **Description of premises.** In the assessment of any lands in the city for any purposes, it shall be sufficient to state the name of one of the owners of such lands if the owner or owners or any of them be residents of the city and known to the commissioner of assessment and taxation; if the owner or owners be unknown to the commissioner, or if they be non-residents and the ownership is unknown to the commissioner, then the assessment may be designated ownership unknown, and there shall be stated the number of the lot and the block, if subdivided into lots and blocks and so designated upon the city assessment map, or the number of the lot or farm lot, if not so subdivided into blocks and lots and so designated, and also the street and number of any building thereon; but if the land be vacant or the building thereon be not numbered, then the name of the street on which it fronts and a brief description of the premises shall be given. In case no inhabited building be on the land and the residence of the owner be unknown, such owner may be designated as unknown. No assessment hereafter made in the city shall be held to be invalid because the same may be made out in terms against the owner or owners unknown or the estate of a deceased person, naming such person, or the executor, administrator, heirs or devisees of a deceased person, naming such person, or any of them, or against a company or a firm name, or against a person in whom is the record title, though not the actual title of the property, or for any cause arising through ignorance or mistake as to the names of the owner or owners of the property assessed, whether individually or a corporation, provided such property is sufficiently described on the assessment rolls, to reasonably identify and indicate to a person familiar with the same, the particular property which it was intended to assess. Every assessment roll shall be considered as referring to the last adopted assessment map, unless it be otherwise stated therein.

§ 226. **Deeds, et cetera, to be presented; maps to be filed.** For the purpose of enabling the commissioner of assessment and taxation to prepare and perpetuate a more perfect record of the names of owners and claimants of real property in said city, every deed of conveyance of lands in said city, or other instrument in writing, whereby the ownership of said lands shall be changed, made and executed after this chapter takes effect, shall, before the same be received for record by the register of Westchester county, be presented at the office of said commissioner of assessment and taxation who shall, without fee, note the said transfer or title upon his records, and also note the fact of such presentation upon such deed. And every map, plot or subdivision map or plot of lands within the city, showing a subdivision of such lands into blocks or lots, shall, before it shall be filed in the office of the register of the county of Westchester, or in any city office, be presented to said commissioner of assessment and taxation and a copy thereof filed and stamped in the office of said

commissioner. If any such map or plot which has not been so stamped, shall be placed on file by any person he shall forfeit to the city of Mount Vernon ten dollars, to be sued for in the name of the city in any court of competent jurisdiction.

§ 227. **Tentative assessment roll.** Between the first and fifth days of April in each year the commissioner of assessment and taxation shall begin to prepare, and by the first day of July shall have completed, in triplicate, a tentative assessment roll for the year. The assessment roll shall be in the form required by the tax law.

§ 228. **Review and correction of assessments.** When the commissioner of assessment and taxation has completed the tentative assessment roll he shall publish at least twice in the official paper or papers a notice of the completion thereof and that it may be examined at his office, and of the days, to be known as grievance days, during which complaints may be filed and heard at his office. A verified written complaint stating the full value of the property and the reasons for complaint must be filed with the commissioner during the grievance days. The said grievance days shall be between the first and the tenth day of August in each year. All complaints shall be heard and decided by the board of review, which shall attend at the commissioner's office for the purpose of hearing complaints on every business day during said period from eight o'clock in the forenoon to twelve o'clock noon, from three o'clock to five o'clock in the afternoon, and from eight to ten o'clock in the evening, and during such other hours as they may deem necessary.

§ 229. **Apportionment of assessment.** Any person whose real property is assessed upon the tentative assessment roll with real property of another person as one piece or plot, may at any time after the filing of such assessment roll, before the same shall have been made the final assessment roll, submit his deed or other evidence of title to the property to the commissioner of assessment and taxation. The commissioner shall apportion the assessment and the tax thereon, and shall forthwith deliver a written statement of his apportionment to the comptroller. The comptroller shall thereupon enter the apportionment upon the assessment roll, and shall thereafter separately receive the taxes so apportioned.

§ 230. **Assessment of omitted property.** During the grievance days aforesaid the commissioner of assessment and taxation may add to the tentative assessment roll any property liable to taxation, the assessment of which may have been omitted, and he may increase any assessment upon the tentative assessment roll, upon giving two days' written notice of such addition or increase to the owner or agent of the property if known, otherwise to the occupant thereof. Such notice may be given by publication in the official paper or papers or by registered mail. Complaints against any such change shall be heard in like manner as complaints against an original assessment.

§ 231. **Right to review assessment of tax for local improvement limited.** No action or proceeding to set aside, vacate, cancel or annul any assessment or tax for a local improvement shall be maintained, except for total want of jurisdiction to levy and assess the same on the part of the officers, board or body authorized by law to make such levy or assessment or to order the improvement on account of which the levy or assessment was made. No action or proceeding shall be maintained to modify or reduce any such assessment or tax except for fraud or substantial error by reason of which the amount of such tax or assessment is in excess of the amount which should have been lawfully levied or assessed.

§ 232. **Procedure on review.** No action or proceeding shall be maintained to set aside, vacate, cancel, annul, review, reduce or otherwise question, test or affect the legality or validity of any assessment or tax for a local improvement, except in the form and manner and by the proceedings herein provided. If, in the proceedings relative to an assessment or tax, entire absence of jurisdiction on the part of the officers, board or body authorized by law to levy or assess the same or to order the improvement on account of which the assessment was made or tax imposed, is alleged to have existed or in case any fraud or substantial error, other than the errors or irregularities specified in the preceding section, by reason of which substantial damages have been sustained, are alleged to have existed or to have been committed, any party aggrieved thereby, who shall have filed objections thereto, within the time and in the manner specified by law therefor, and whose objections have been overruled by the board of review, may apply to the supreme court at any special term thereof, held within the ninth judicial district, for an order vacating or modifying such assessment as to the land in which he has an interest, upon the grounds, in said objections specified, and no other, and upon due notice of such application to the corporation counsel. Each such application shall be made within twenty days after the confirmation of the assessment. Thereupon such court may proceed to hear the proofs and allegations of the parties and determine the same, or may appoint a referee to take the proof and report thereon or to hear, try and determine the same. If it shall be determined in such proceeding that the officers, board or body had no jurisdiction to make the levy or assessment complained of or to order the improvement, the court may order such assessment or tax vacated. If it shall be determined therein that any such fraud or substantial error has been committed and that the party applying for such relief has suffered substantial damages by reason thereof, the court may order that the assessment or tax be modified as to such party, and that so modified it be confirmed. A like application may be made to secure a modification or reduction of any such assessment or tax on account of fraud or some substantial error occurring in the performance of the work of the improvement on account of which such assessment or tax is made or levied, and it shall be

determined in like manner. If, in any such proceeding, it shall be determined that such fraud or substantial error has been committed, by reason of which any such assessment or tax upon the lands of any such aggrieved party has been unlawfully increased, the court may order that such assessment or tax be modified by deducting therefrom such amount as is in the same proportion to such assessment or tax as the whole amount of such unlawful increase is to the whole amount of the assessment or tax for the improvement. An order so made in any such proceeding shall be entered in the county clerk's office of Westchester county, and shall have the same force and effect as a judgment. The court may, during the pendency of any such proceeding, stay the collection of any assessment or tax involved therein as against the parties thereto. Costs and disbursements of any such proceeding may be allowed in the discretion of the court. No appeal shall be allowed or taken from the order made in any such proceeding, but the determination so made therein shall be final and conclusive upon all the parties thereto. No assessment or tax shall be modified otherwise than to reduce it to the extent that the same may be shown by the parties complaining thereof to have been in fact increased in dollars and cents by reason of such fraud or substantial error. In no event shall that proportion of any such assessment which is the equivalent of the fair value or fair cost of the improvement be disturbed for any cause. No money paid on account of any assessment or tax shall be recovered for any cause, except the amount of the excess of such assessment or tax over and above the fair value and cost of the improvement. In case of the failure of any assessment or tax for any cause, the comptroller shall certify such fact to the common council and it shall be its duty to forthwith cause the same to be relieved and reassessed in a proper manner.

§ 233. **Consolidation of separate proceedings.** Two or more persons may unite in commencing and prosecuting proceedings to vacate or modify assessments; and when two or more persons have commenced separate proceedings to vacate or modify assessments for the same improvement, the court before whom the same are commenced or pending, or a judge thereof at special term or chambers may, by order upon due application and notice, consolidate such separate proceedings into one proceeding.

§ 234. **Rebates and deficiencies.** In all cases of assessment for improvements the commissioner of assessment and taxation shall include in the apportionment all the expenses connected with or which were incident to the making of the improvement and assessment. Whenever the amount apportioned shall exceed the actual cost of the improvement, including all expenses connected therewith or incident thereto, the comptroller shall certify the amount of the surplus to the commissioner and he shall thereupon declare a rebate and the excess shall be refunded pro rata to the persons who paid their assessments. If the amount assessed for any improvement shall be insufficient to cover the cost of the improvement, including all expenses connected therewith and

incidental thereto, the comptroller shall certify the amount of the deficiency to the common council and commissioner of assessment and taxation, and the common council and commissioner shall forthwith cause to be assessed and levied the amount of such deficiency pro rata upon the property included within the original assessment and the same shall be assessed, levied and collected in like manner as other assessments of a like character.

§ 235. **Completion and filing of the assessment roll.** The board of review shall decide all complaints and the commissioner of assessment and taxation shall correct and revise the tentative assessment roll in accordance with their decisions on or before the fifteenth day of September in each year. Each revision shall be made in red ink and shall be initialed by the commissioner of assessment and taxation. No erasure shall be made upon any copies of the said tentative assessment roll; errors shall be corrected in green ink. When the tentative assessment roll has been revised as herein provided the amounts of the assessments as revised as aforesaid shall be duly added and the totals stated, and the commissioner shall verify all three copies as required by the provisions of the tax law and shall duly certify the same to be the general assessment roll of the year in which it is so certified. The commissioner shall thereupon and before the first day of October in each year file one copy of the said general assessment roll in his office for public inspection and shall forthwith deliver another copy thereof to the clerk of the board of supervisors of Westchester county, and file the third copy thereof with the comptroller for the purpose of apportioning and extending the taxes of the following year thereon as herein provided. The assessment roll shall thereupon become official and conclusive as to all persons who have not made complaints as provided by this chapter.

§ 236. **Correction and cancellation of taxes and assessments.** The common council shall have authority to correct clerical errors on the assessment roll, to cancel or correct any erroneous or invalid assessments and to cancel or refund the taxes or special assessments thereon or any part thereof or any interest, penalty or fee pertaining thereto, except in the case of an assessment which is or which is claimed to be erroneous or invalid by reason of overvaluation or inequality. Each application for correction or cancellation must be by a written petition which must contain a statement of the full value of the property and all the facts necessary to a proper determination upon the application. Such petition must be signed and verified by the party in interest or his duly constituted agent or attorney. The commissioner of assessment and taxation, the comptroller or the commissioner of public works may make an application under the provisions of this section.

§ 237. **Record of correction of taxes and assessments.** Upon the cancellation or correction of any taxes or assessments by the common council, or by judgment of a court, the city clerk shall report the same to the comptroller who shall enter the same.

§ 238. **Assessment not invalidated by irregularities.** No assessment or tax shall be vacated, set aside, cancelled, annulled, reviewed or otherwise questioned or affected by reason of any error, omission, irregularity or defect, not actually fraudulent, in any of the steps or proceedings required to be had or taken as preliminary to, or in the making of, the assessment, or in the levying or collection of the tax, nor in relation to or in connection with any proposal, designation of materials, contract, work or improvement for or on account of which such assessment was made or tax imposed. But all property shall be liable to assessment and all assessments shall be valid and of full force and effect notwithstanding any such error, omission, irregularity or defect.

§ 239. **Establishment of tax rate; assessment roll; tax warrant.** The common council shall, on or before the first day of December, preceding the time when this charter goes into effect, and in each year thereafter, levy and cause to be raised by such tax a sum as shall be as nearly as possible but not less than the amount of the tax budget theretofore adopted for such year, by fixing a tax rate in cents and hundredths of a cent upon each dollar of assessed valuation of real and personal property within the city, to be collected from the several owners thereof. The city clerk shall forthwith certify to the comptroller the tax rate so fixed. The comptroller shall apportion and extend the city taxes against the respective assessments as the same are set forth in the assessment roll and shall deliver the said roll to the city clerk. The common council shall thereupon confirm the taxes so apportioned and extended and shall issue its warrant signed by the president of the common council and by the mayor, directing the comptroller to collect the amount of said taxes with interest as provided by law. The said assessment roll, together with the taxes so apportioned and extended, together with the said warrant, shall be the tax roll for the year and shall forthwith be delivered by the city clerk to the comptroller. The said warrant shall be returned at such time as the common council shall direct.

§ 240. **Taxes payable in instalments.** All taxes upon personal property and one-half of all taxes upon real estate shall be due and payable on the first day of January in each year, and the remaining and final one-half of taxes on real estate shall be due and payable on the first day of July thereafter in each year. All taxes shall be and become liens on the real estate affected thereby on the respective days when they become due and payable as hereinbefore provided and shall remain such liens until paid.

The second half of the tax on real estate which is due as hereinbefore provided on the first day of July following the payment of the first half, may be paid on the first day of January or at any time thereafter, providing the first half shall have been paid or shall be paid at the same time, and on such payments of the second half as may be made in such manner prior to July first

a discount shall be allowed from the date of payment to July first at the rate of four per centum per annum.

§ 241. **Notice of receipt of tax roll; payment of taxes to comptroller.** After receiving said tax roll and beginning on the second day of January in each year, the comptroller shall cause notice of the receipt thereof by him to be published in the official paper or papers once a week for three successive weeks that the same has been left with him for collection, and that all taxes shall be due and payable at his office at the times to be specified in such notice. No further notice than that herein required shall be deemed necessary either in the case of property owned by a resident or a non-resident, except that any person or corporation, whether a resident or non-resident of the city, who is the owner of or liable to assessment for an interest in real property in the city, may file with the comptroller of the city a notice stating his name, residence and post-office address, or in the case of a corporation, its principal office, a description of the premises, with its number or other designation on the city tax map, which notice shall be valid and continue in effect until cancelled by such person or corporation. The comptroller shall within twenty days after receiving such tax roll, or any other warrant for the collection of taxes, mail to each person or corporation filing such notice at the post-office address stated therein a duplicate tax bill for all taxes upon such real property included in said tax roll, or such other warrant. The comptroller shall add to the amount of such taxes the sum of ten cents for the expense of stationery and postage, which sum of ten cents shall be collected with such taxes. But the failure of the comptroller to mail such duplicate tax bill shall not invalidate such taxes, nor prevent the accruing of any interest or penalty imposed for the non-payment of taxes, nor prevent the sale of such property for the nonpayment of such taxes, as provided in this chapter.

The comptroller shall deliver a receipt wholly written in ink or partly printed and filled out in ink or indelible pencil to each person paying a tax, specifying the date of such payment, the name of such person, a description of the property as shown on the assessment roll and the assessed valuation thereof and for personal property or special franchise tax the amount thereof, the name of the person to whom the same is assessed, the amount of such tax and the date of delivery to him of the assessment roll, on account of which such tax is paid. For the purpose of giving such receipt, the said comptroller shall have a book of blank receipts so arranged that when a receipt is drawn therefrom, the corresponding stub or receipt will remain. The comptroller shall prescribe the form of such receipts, stubs and books and on the back of such receipts there shall be printed a statement showing the total assessed valuation of real estate, the total assessed valuation of personal property, the total assessed valuation of special franchises, the total assessed valuation of all property taxable within the city, the tax rate and the total taxes, together with a summary of the tax budget. At least ten days

before the second installment of tax upon said roll shall become due, the comptroller shall publish and mail in the same manner a similar notice of the times of payment and penalties and fees attaching to said second installment of tax, which penalties and fees shall be the same as upon the first installment of said tax.

§ 242. **Interest and penalties.** If any tax on personal estate or the first one-half of any tax on real estate shall remain unpaid on the first day of February after it shall become due and payable it shall be the duty of the comptroller to charge, receive and collect upon such tax so remaining unpaid on that day, interest upon the amount thereof, at the rate of eight per centum per annum, to be calculated from the day on which said taxes or such part thereof became due and payable, as provided herein, to the date of payment; and such increase of percentage shall be paid over and accounted for by such comptroller from time to time, as a part of the tax collected by him. If the final half of any tax on real estate shall remain unpaid on the first day of August after it shall be due and payable, it shall be the duty of the comptroller to charge, receive and collect upon such tax so remaining unpaid on that day, interest upon the amount thereof, at the rate of eight per centum per annum, to be calculated from the day on which said final half of said tax became due and payable, as herein provided, to the date of payment; and such increase of percentage shall be paid over and accounted for by such comptroller from time to time, as a part of the tax collected by him.

§ 243. **Notice to delinquents.** If any tax, or installment thereof, shall remain uncollected at the expiration of the times mentioned for the payment thereof, the comptroller shall give a written or printed notice to the person, corporation or association against whom such tax or installment thereof stands charged. Said notices shall bear even date, and shall require said persons, corporations or associations to pay such unpaid tax, or installment thereof, to said comptroller at his office within the term of twenty days thereafter with eight per centum interest thereon. Such notice may be served personally or by leaving the same at the residence or place of business of such person, corporation or association, or by mailing in the postoffice of the city properly folded, directed and postage paid, at least ten days before the expiration of the time last mentioned. For persons not residents within the city a notice to them or their agent mailed in the postoffice at Mount Vernon, properly folded, directed to them at their reputed places of residence and postage paid, shall be sufficient. The person or persons serving such notices, if served by a person other than the comptroller shall be designated by him, and an affidavit by such person or persons of the service of such notices shall be deemed evidence in all courts and places; said notice so served shall be deemed a full compliance with the statute which requires a collector of taxes to call at least once on the person taxed or at the place of his usual

residence and demand the payment of taxes charged on his property.

§ 244. **Certification of unpaid taxes to corporation counsel.** Whenever the unpaid taxes and assessments levied against any property in the city remain unpaid for a period of more than three years, together with the penalties thereon, the comptroller shall thereupon certify the same to the corporation counsel who shall forthwith foreclose the liens of such taxes and assessments in the manner provided by this chapter for the foreclosure of tax liens.

§ 245. **Return of unpaid taxes.** Within fifteen days after the time specified in any warrant for its return, or if the time of its return be extended, then within fifteen days from the time to which its return shall have been extended, the comptroller shall make and deliver to the common council a return of all taxes or assessments mentioned in the tax-roll or assessment-list remaining unpaid at the time of making such return; and upon making oath that the sums mentioned in said return remain unpaid, he shall be credited by the common council with the amount thereof. The comptroller may receive payment of taxes and assessments under such warrant until the delivery of said return to the common council.

ARTICLE XVI.

CIVIL SERVICE COMMISSION.

Section 249. Civil service commissioners.

§ 249. **Civil service commissioners.** The civil service commission shall be constituted as prescribed by law and shall elect one of its members president. Subject to and in the manner provided by the civil service law, the commission may appoint to hold office during its pleasure, a secretary and such other employees as may be prescribed by law, by this chapter or by the board of estimate and contract.

ARTICLE XVII.

DEPARTMENT OF EDUCATION.

Section 254. Existing system continued.

§ 254. **Existing system continued.** The public school system of the city and the organization, government and maintenance thereof, and the title to all school property connected with or constituting a part of the public school system, as they now exist, are continued.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

Section 260. Retention of water commission.

261. Pension funds.

262. Books and papers to be public records.

Section 263. Inhabitants not incompetent; place of trial of actions and proceedings.

264. Witness not to be excused from testifying.

265. Liability of city in actions for damages or injuries to person or property.

266. Officers to surrender city property.

§ 260. Retention of water commission. The provisions of law governing the establishment, organization, powers and duties of the water commission of the city of Mount Vernon shall remain unimpaired by this chapter except that said commission shall consist of but one person to be appointed by the mayor and to hold office during his pleasure and upon whose appointment, the terms of office of the commissioners now in office shall cease and expire.

§ 261. Pension funds. The provisions of law governing the establishment, maintenance, management, control, and distribution of pension funds for the benefit of members of the police and fire departments shall be unimpaired by this chapter.

§ 262. Books and papers to be public records. All books and papers and documents filed with or constituting a part of the records or proceedings of any officer, board or department of the city, shall be deemed to be public records and shall, during office hours, be open to public inspection.

§ 263. Inhabitants not incompetent; places of trial of actions and proceedings. Upon the trial of any issue or the prosecution of any proceeding, or upon the taking or making of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, to which issue, proceedings, inquest, investigation or award the city is a party, or in which the city may in any way be interested, no person shall be deemed incompetent as a judge, referee, commissioner or witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the city.

§ 264. Witness not to be excused from testifying. No witness shall be excused from testifying in any criminal proceeding or in any investigation or inquiry before the common council, or any committee thereof, or before any officer conducting an investigation, touching the knowledge of such witness as to any offense committed in violation of the provisions of this chapter, or of any law of the state or ordinance of the city; but such testimony shall not be used against such witness in any criminal prosecution or proceeding whatever.

§ 265. Liability of city in actions for damages for injuries to person or property. No civil action shall be maintained against the city for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed unless it appear that written notice of the defective, unsafe, dangerous, obstructed condition of such street, highway, bridge, culvert, sidewalk or crosswalk was actually given to the commissioner of public works, and that there was a failure or

neglect within a reasonable time after the giving of such notice to repair, or remove the defect, danger or obstruction complained of, or in the absence of such notice, unless it appears that such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence. But no such action shall be maintained for damages or injuries to the person sustained solely in consequence of the snow or ice upon any sidewalk, crosswalk or street, unless written notice thereof, relating to the particular place, was actually given to the commissioner of public works and there was failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice. The city shall not be liable in a civil action for damages or injuries to person or property, or invasion of personal or property rights of any name or nature whatsoever, whether casual or continuing, arising at law or in equity, alleged to have been caused or sustained, in whole or in part, by or because of any omission of duty, wrongful act, fault, neglect, misfeasance or negligence on the part of the city, or any of its agents, officers, or employees, unless a claim therefor in writing, verified by the oath of the claimant, containing a statement of the place of residence of the claimant, by street and number, if any, otherwise such facts as will disclose such place of residence with reasonable certainty, and describing the time when, the particular place where and the circumstances under which the damages or injuries were sustained, the cause thereof and, so far as then practicable, the nature and extent thereof, shall within three months after the happening of the accident or injury or the occurrence of the act, omission, fault or neglect out of which or on account of which the claim arose, be presented to the common council and served upon the mayor or city clerk and notice of intention to commence an action thereon be served upon the corporation counsel, nor unless an action shall be commenced thereon within one year after the happening of such accident or injury or the occurrence of such act, omission, fault or neglect; but no action shall be commenced to recover upon or enforce any such claim against the city until the expiration of three months after the service of said notice upon the corporation counsel. Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by any existing requirement or statute of limitation nor to waive any existing limitation now applicable to any claim or cause of action against the city.

§ 266. **Officers to surrender city property.** All books, papers, documents, files, funds and moneys in the hands of the elective and appointive officers of the city at the time when this chapter goes into effect shall be turned over to the mayor. Nothing contained in this section is to be construed as relating to the public school system or the board of education now existing in the city, or as modifying or destroying any vested right.

ARTICLE XIX.**CONSTRUCTION.****Section 271. Construction.****272. Saving clause.****273. Laws repealed.****274. Time of taking effect; schedule of laws repealed.***

§ 271. **Construction.** This act is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. This act shall be construed not as an act in derogation of the powers of the state but as one intended to aid the state in the execution of its duties, and shall be so construed as to carry into effect the objects and purposes thereof.

§ 272. **Saving clause.** Nothing contained in this chapter shall be construed to repeal any statute of the state or ordinance of the city or rule or regulation of the board of health, not inconsistent with the provisions of this chapter, and the same shall remain in full force and effect, when not inconsistent with the provisions of this chapter, to be construed and operated in harmony with its provisions. The powers which are conferred and the duties which are imposed upon any officer or department of the city under any statute of the state, or any city ordinance which is in force at the time of the taking effect of this chapter shall, if such office or department be abolished by this chapter, be thereafter exercised and discharged by the officer, board or department upon whom is imposed corresponding or like functions, powers and duties under the provisions of this chapter. Where any contract has been entered into by the city prior to the time of the taking effect of this chapter, or any bond or undertaking has been given to or in favor of the city, which contains provisions that the same may be enforced by some officer, board or department therein named, but by the provisions of this chapter such officer, board or department is abolished, such contracts, bonds and undertakings shall not in any manner be impaired, but shall continue in full force, and the powers conferred and the duties imposed with reference to the same upon the officer, board or department which has been abolished, shall thereafter be exercised and discharged by the officer, board or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this chapter.

§ 273. **Laws repealed.** The following acts and parts of acts are hereby repealed:

1. The laws enumerated in the schedule annexed, except such parts thereof as apply to the school system of the city and to the government, support and maintenance of the same, and except such parts thereof as authorize the city to borrow money and issue bonds or other evidences of indebtedness, or provide for the ap-

* So in original. [Does not conform to section heading.]

plication to the payment of bonds heretofore issued by the city of assessments upon property for the improvement thereof.

2. All acts or parts of acts and ordinances of the city, in so far as inconsistent with the provisions of this chapter.

Nothing herein contained, however, shall be deemed to repeal or in any wise affect the validity of the provisions of chapter ten of the laws of eighteen hundred and ninety-four; chapter one hundred and eighty-nine of the laws of eighteen hundred and ninety-five; chapter one hundred and forty-six of the laws of eighteen hundred and ninety-six; chapter four hundred and forty-three of the laws of eighteen hundred and ninety-eight; chapters five hundred and forty-two and five hundred and eighty-one of the laws of nineteen hundred; chapters four hundred and seventy-three and four hundred and eighty-nine of the laws of nineteen hundred and one; chapter three hundred and seventy-five of the laws of nineteen hundred and two; chapter forty-six of the laws of nineteen hundred and three; chapter four hundred and fifty-nine of the laws of nineteen hundred and four; chapter one hundred and sixty-five of the laws of nineteen hundred and seven; chapter forty-one of the laws of nineteen hundred and eight; chapter ninety-two of the laws of nineteen hundred and nine; chapters forty-nine, seventy-five and four hundred and fifty-seven of the laws of nineteen hundred and ten; chapters seventy-seven, one hundred and twenty-seven and five hundred and fifty of the laws of nineteen hundred and eleven; chapters three hundred and fifty-six and four hundred and seventy-eight of the laws of nineteen hundred and twelve; chapters forty-four and ninety-seven of the laws of nineteen hundred and thirteen; chapter four hundred and thirty-two of the laws of nineteen hundred and fourteen; and chapter eighty-one of the laws of nineteen hundred and nineteen. And nothing herein contained shall be deemed to repeal or in any wise affect the validity of the laws expressly reserved by the provisions of this chapter.

§ 274. **Time of taking effect.** This chapter shall take effect January first, nineteen hundred and twenty-three, except that with respect to the provisions for preparing for and holding the first election of officers thereunder, and for doing any and all other acts required by this chapter or necessary to be done in order to prepare for the full operation thereof on and after the first day of January, nineteen hundred and twenty-three, this chapter shall take effect immediately, and be binding upon and be performed by every officer.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter
1892.....	182
1894.....	456
1894.....	598
1895.....	243
1895.....	710

Laws of	Chapter
1896.....	205
1896.....	692
1896.....	774
1898.....	238
1898.....	247
1900.....	361
1900.....	564
1901.....	69
1901.....	202
1901.....	285
1901.....	329
1901.....	474
1902.....	610
1903.....	165
1903.....	402
1904.....	695
1905.....	85
1905.....	473
1905.....	561
1906.....	71
1906.....	204
1907.....	672
1908.....	115
1908.....	226
1908.....	341
1908.....	342
1908.....	384
1908.....	425
1909.....	552
1910.....	51
1910.....	76
1910.....	306
1911.....	82
1911.....	567
1911.....	676
1912.....	410
1912.....	430
1913.....	99
1914.....	225
1914.....	295
1915.....	612
1916.....	310
1916.....	476
1917.....	427
1919.....	80
1920.....	114
1920.....	116
1920.....	117
1920.....	179
1921.....	87

CHAPTER 491

AN ACT to authorize the town of Bedford, in the county of Westchester, to purchase certain real estate in said town adjoining other town property and to be used in connection therewith.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Bedford in the county of Westchester is hereby authorized to purchase the property adjoining the old Bedford court house in said town, described as follows:

Beginning at the northwest corner of the court house and adjoining the highway leading from the dwelling house of James Lounsberry through the village of Bedford, thence running east along the northerly side of the court house fifty-six feet six inches to a stake in the fence, thence northerly by land of said Miller fifty-one feet to a stake in the fence adjoining the new road leading from the court house to Bedford Female Institute, thence westerly along the said new road fifty-five feet with the fence to the first mentioned highway, thence southerly along said highway to the place of beginning. Containing eleven rods be the same more or less.

But the amount to be paid for said property shall not exceed the sum of three thousand dollars and the purchase price of such property shall be a town charge and shall be paid in the same manner as other town charges are paid. Such property shall be used and maintained in connection with the said court house and may be improved accordingly.

§ 2. This act shall take effect immediately.

CHAPTER 492

AN ACT to amend the conservation law, in relation to a close season for the taking of wild pheasants in the counties of Washington and Essex.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section two hundred and fourteen of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter four hundred

L. 1911, ch. 647, § 214, subd. 3, as added by L. 1912, ch. 318, and amended by L. 1921, ch. 498, amended.

and ninety-eight of the laws of nineteen hundred and twenty-one¹ is hereby amended to read as follows:

3. Wild pheasants. On the last two Thursdays in the month of October and the first two Saturdays in the month of November and possessed during the period of time between the first open Thursday in October and the Thursday immediately following the last open Saturday in November, both inclusive, but possession afield during the close days intervening between the first open Thursdays in October and the Thursday immediately following the last open Saturday in November shall be presumptive evidence of illegal taking. Only wild male pheasants may be taken. A person may take and possess not to exceed three wild male pheasants in the open season. ² There shall be no open season for wild pheasants in the counties of Washington and Essex before the third Thursday of October, nineteen hundred and twenty-four.

§ 2. This act shall take effect immediately.

CHAPTER 493

AN ACT to amend the civil service law, in relation to the appointment of the employees to the abolished positions formerly held by them.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen of chapter fifteen of the law of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," is hereby amended by inserting therein a new subdivision to follow subdivision three, to be subdivision four, to read as follows:

Subd. 4
added to
L. 1909, ch.
15, § 15.

4. A person in the competitive service who by reason of the abolition of the position held has been reduced in grade and who has served continuously in such reduced grade, with the approval of the commission may be restored without further examination to the position previously held if the same be re-established and if such restoration does not involve a substantial change of duties.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1913, ch. 508; L. 1914, ch. 92; L. 1916, ch. 521; L. 1917, ch. 486.

² Following sentence new.

CHAPTER 494

AN ACT to amend the county law, relative to the payment of certain expenses of district superintendents of schools.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 16, § 12, subd. 36, as added by L. 1914, ch. 389, and renumbered by L. 1917, ch. 106, amended.

Section 1. Subdivision thirty-six of section twelve of chapter sixteen of the laws of nineteen hundred and nine, entitled "An act in relation to counties, constituting chapter eleven of the consolidated laws," as added by chapter three hundred and eighty-nine of the laws of nineteen hundred and fourteen and renumbered by chapter one hundred and six of the laws of nineteen hundred and seventeen is hereby amended to read as follows:

36. The board of supervisors is authorized to provide for the payment of properly itemized and verified bills of district superintendents of schools of the supervisory districts in the county rendered by them for expenses incurred for necessary printing, ¹ office supplies and clerical assistance ² subject to such conditions as the board may prescribe. The board may, by resolution, authorize the incurring of indebtedness for such purposes and when so authorized the bills therefor shall be audited and paid in the same manner as other charges against the county.

§ 2. This act shall take effect immediately.

CHAPTER 495

AN ACT authorizing the city of Elmira to convey certain premises to Samuel G. H. Turner.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Conveyance authorized.

Section 1. The city of Elmira is by its mayor and city clerk pursuant to a resolution of the common council authorized to convey to Samuel G. H. Turner that portion of certain premises situate in the city of Elmira acquired by it in a proceeding designated in the matter of the application and petition of the city of Elmira to acquire real estate for and on behalf of the city of Elmira, for the purpose of an approach to the new Main street bridge, which premises were not necessary for the use of said approach to said bridge and are briefly bounded and described as follows: All that tract or parcel of land, situate in the city of

Description of premises.

¹ Word "and" omitted.

² Words "and clerical assistance" new.

Elmira, county of Chemung, and state of New York, beginning at a point in the south line of West Water street, which point is distant easterly fifty and eighty-two hundredths feet from the west line of land of said Samuel G. H. Turner, and which line is the center line of the west wall of the store, known as number two hundred and seven West Water street; running thence southerly along the east face of the brick facing wall built by the city of Elmira on the east face of the east wall of the store known as number two hundred and three West Water street, about fifty-eight and eight-tenths feet to the south face of the south wall of said building, thence westerly along the south face of said building thirty-five hundredths of one foot (four and three sixteenths inches) to a point in said facing wall; thence northerly in a straight line about fifty-eight and eight-tenths feet to a point, the place of beginning. The land described is triangular in shape and is fifty-eight and eight-tenths feet in length on the east and west sides and four and three-sixteenths inches on the south side.

Also all those parts of the foundation wall and its footing wall lying east of the west line of the triangular piece of land, above described.

Also all that tract or parcel of land beginning at the southeast corner of the brick facing wall, built by the city of Elmira on the east face of the east wall of number two hundred and three West Water street, which building is now owned by Samuel G. H. Turner; running thence southerly and parallel with the center line of the old Main street bridge about forty feet to the south face of the south wall of the brick building standing in the rear of numbers two hundred and three, two hundred and five and two hundred and seven West Water street; thence westerly along the south face of said building thirty-five hundredths feet (four and three-sixteenths inches) to a point; thence northerly and parallel with the said center line of the old Main street bridge about forty feet to the south face of the said number two hundred and three West Water street; thence easterly along said south face of the said two hundred and three West Water street; thence easterly along said south face of said wall thirty-five hundredths feet (four and three-sixteenths inches) to the point, the place of beginning.

§ 2. This act shall take effect immediately.

CHAPTER 496

AN ACT to incorporate the Firemen's Benevolent Fund Association of the village of Herkimer.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All such persons as now are or have been or hereafter shall be engineers of the fire department, or members of any

Corporators.

fire engine, hook and ladder, patrol or hose company in the village of Herkimer, in the county of Herkimer, and all persons residents of said village who now have or shall hereafter have served the time required by the village law and rules and ordinances of the village of Herkimer to entitle them to exemption from services as jurors and militia duty, and who have received or shall hereafter receive the certificate required by said law, rules and ordinances, as evidence of such service and exemption, are hereby constituted a body corporate by the name of the "Firemen's Benevolent Fund Association of Herkimer, New York," for the relief of indigent and disabled firemen and their families; and for that purpose shall have power to purchase, take, hold, transfer and convey real and personal property to an amount not exceeding five thousand dollars, for the purposes of the association; and by that name may sue and be sued; may have and use a common seal; may adopt a constitution, by-laws, rules and regulations for the government of said association; for the voluntary withdrawal, censure and expulsion of its members; for the assessing and collection of fees and dues of its members; for the election of its officers and safe-keeping of its property, and from time to time to alter, modify and change such constitution, by-laws, rules and regulations.

Corporate
name.

Purpose and
corporate
powers.

Trustees.

§ 2. The control and disposal of the funds and property and estate of the said corporation and the management of its affairs shall be vested in a board of eight trustees composed of the officers of said association, which shall be a president, first vice-president, second vice-president, recording secretary, financial secretary and treasurer, such officers being ex officio members of the board of trustees, and two trustees, all of which officers and trustees shall be elected at the annual meeting of said association. The first annual meeting of said association shall be held on the first Monday of May, nineteen hundred and twenty-two, or as soon thereafter as practicable, at the meeting room of the Fort Dayton Steamer Company in the village of Herkimer, New York, at eight o'clock in the evening, and the regular annual meeting shall be held on the first Monday of January in each year thereafter. Notice of such first annual meeting shall be given by the secretary of the fire department of the village of Herkimer, New York, by mailing a notice, stating the time and place when and where such meeting is to be held, to the secretary of each fire engine, hook and ladder, patrol and hose company within the said village of Herkimer, New York, who are hereby directed to notify the members of their respective companies, and the first mentioned secretary shall send notices to all the residents of the village of Herkimer who are exempt firemen, so-called, whose names and addresses are known or are easily ascertainable; at such first annual election the members of such companies and such exempt firemen shall vote for officers and trustees to act until the next annual meeting. At such first annual meeting a constitution and by-laws shall be adopted unless the meeting be adjourned for the purpose of taking action thereon. Said officers and trustees shall

Meetings;
by-laws;
officers and
trustees.

be chosen for the first annual meeting by those members of such association who are or may be entitled by the laws of said association to vote. The officers and trustees of such association shall hold their respective offices for one year and until their successors are chosen.

§ 3. The membership of any person in said association or corporation shall be terminated by his death or by his voluntary withdrawal therefrom or by expulsion therefrom, and the manner of withdrawal and expulsion of members shall be determined and provided for by the by-laws of such corporation, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so terminated, in and to or by reason of the said corporation, by reason of his former membership therein, or in and to its property and effects, shall, except by the unanimous consent of the officers and trustees of the said corporation, cease and be forever at an end.

Termination of membership.

§ 4. In case it shall at any time happen that an election of trustees or officers of this association shall not be held on the day designated herein, said association for that cause shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees and officers in such manner and at such time and place as may be directed by such association.

Election not held on day designated.

§ 5. The association shall be capable of taking, holding or receiving any property, real or personal, by virtue of any devise or bequest contained in any last will and testament of any person whatsoever, provided no person leaving a wife or child or parent shall devise or bequeath to such association more than one-quarter of his or her estate after payment of his or her debts, and such devise or bequest shall be valid to the extent of such one-quarter and no devise or bequest shall be valid in any will which shall not have been made and executed at least two months before the death of the testator. And this association shall have full power to sell, dispose of and convey any and all property so received, if not restricted from doing so by will.

Power to receive devises and bequests.

§ 6. All the tax on the business or policies of foreign fire insurance companies doing business within the corporate limits of said village shall be paid to the said association, the same to be used for the care of indigent and disabled firemen and their families, except the sum thereof payable to the Firemen's Association of the State of New York under the provisions of the insurance law.

Certain taxes payable to association.

§ 7. This act shall take effect immediately.

CHAPTER 497

AN ACT to amend chapter five hundred and forty-one of the laws of nineteen hundred and sixteen, entitled "An act relating to the preparation of assessment-rolls for the townships and tax districts therein, in the county of Nassau, and the collection of taxes in such towns and tax districts, and to repeal certain local acts and parts of acts relating to assessments and taxation in such county," in relation to advertisement of notice of sale.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1916, ch.
641, § 11
amended.

Section 1. Section eleven of chapter five hundred and forty-one of the laws of nineteen hundred and sixteen, entitled "An act relating to the preparation of assessment-rolls for the townships and tax districts therein, in the county of Nassau, and the collection of taxes in such towns and tax districts, and to repeal certain local acts and parts of acts relating to assessments and taxation in such county," is hereby amended to read as follows:

§ 11. **Form of assessment roll.** The assessment roll to be prepared by the board of assessors in Nassau county, shall comply in all respects with the tax law, with respect to the preparation of assessment rolls, except there shall be additional columns or additional books, as the assessors may decide, for the designation of assessments of property exempt from taxation and of property situated in school districts, and the extension and collection of the taxes collected thereon, and the property assessed shall be designated or described in the same manner as the property assessed is described or designated on the tax maps, when prepared, as prescribed in article one hereof. ¹ The assessors, in their discretion, may provide additional columns for the purpose of listing all real estate, on which taxes and assessments have been levied and returned to the county treasurer as unpaid. ¹ When such property has been listed in such assessment rolls, such assessment rolls shall thereafter be also the tax sales books required under section eighty-one of this act. Any incorrect statement of the name of the owner or owners of any property described in said assessment roll shall not in any way affect the validity of said assessment roll, and the property of nonresidents shall be assessed in the same manner as the property of residents. All real estate exempt from taxation shall be assessed in the same manner as taxable property.

§ 2. This act shall take effect immediately.

¹ Following sentence new.

CHAPTER 498

AN ACT to amend chapter five hundred and fifty-nine of the laws of nineteen hundred and ten, entitled "An act to provide a charter for the city of New Rochelle," generally.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twelve of chapter five hundred and fifty-nine of the laws of nineteen hundred and ten, entitled "An act to provide a charter for the city of New Rochelle," as amended by chapter two hundred and twenty-five of the laws of nineteen hundred and thirteen, is hereby amended to read as follows:

L. 1910, ch. 559, § 12, as amended by L. 1913, ch. 225, amended.

§ 12. **Appointive officers.** The mayor shall appoint and may at pleasure remove: a city clerk, three civil service commissioners, and¹ a corporation counsel.² He shall appoint a commissioner of public works, a commissioner of assessment and taxation, three commissioners of parks, docks and harbors, three police commissioners, three fire commissioners, nine trustees who shall constitute the board of education, three commissioners of health, an inspector of buildings, a commissioner of charities, a sealer of weights and measures, and such other officers as the mayor is authorized to appoint by law, and for the appointment of whom provision is not in other manner made.

§ 2. Section fifteen of such chapter is hereby repealed and a new section is hereby added, to be section fifteen thereof, and to read as follows:

§ 15 repealed; new § 15 added.

§ 15. **Term of appointive officers.** Except as herein otherwise provided, the terms of office of officers appointed by the mayor shall be two years. The city clerk, corporation counsel and civil service commissioners shall serve at the pleasure of the mayor. Members of the board of education shall be appointed for terms of five years and the commissioners of assessment and taxation and the acting city judge shall be appointed for terms of three years. On January first, nineteen hundred and twenty-four, or within ten days thereafter the mayor shall appoint three police commissioners, three park commissioners, three fire commissioners and three health commissioners. Two members of each of such commissions shall always be appointed for terms expiring with that of the mayor making the appointments, and one of the members first appointed shall hold office for three years and thereafter the successors of that member shall be appointed for a term of two years each.

The term of office of each appointive officer shall begin on the day succeeding his appointment and qualification, and unless a

¹ Word "and" new.

² Words ", and a commissioner of streets" omitted.

different date is specified in the certificate of appointment, or in this act. The term of office of any officer appointed after this act takes effect and before January first, nineteen hundred and twenty-four, whose term of office is two years, shall be appointed for a term which will expire on January first, nineteen hundred and twenty-four.

§ 114
amended.

§ 3. Section one hundred and fourteen of such chapter is hereby amended to read as follows:

§ 114. **Limitation of expenditure without advertising.** Except as otherwise provided in this act, and except where the expenditure does not exceed the sum of one thousand dollars, and such expenditure is authorized by the board of estimate and apportionment,³ no expenditure shall be made or obligation incurred in excess of five hundred dollars for the same piece of work, or within thirty days to the same person for the same material or item of supply, except under a contract let to the lowest bidder after an advertisement inserted by the contracting board or officer in the official newspapers; but the office or board thus advertising may accept or reject any proposal, may contract with other than the lowest bidder, or may reject all proposals and advertise again.⁴

Arts. 18, 20
repealed
new art 18
added.

§ 4. Articles eighteen and twenty of such chapter are hereby repealed and a new article to be article eighteen is hereby added and to read as follows:

ARTICLE XVIII.

DEPARTMENT OF PUBLIC WORKS.

§ 271. **Commissioner of public works.** The commissioner of public works shall be the head of the department of public works. He shall appoint, to hold office during his pleasure, such subordinates as may be prescribed by the board of estimate and apportionment. In case of the absence or disability of the commissioner, or of vacancy in the office, the mayor may appoint an acting commissioner who shall discharge the duties of the office until the commissioner returns, his disability ceases or the vacancy is filled. The commissioner and acting commissioner before entering upon the discharge of the duties of their respective offices shall each execute and file with the city clerk an official undertaking in such penal sum as may be prescribed by the council.

§ 272. **Powers and duties.** He shall have charge of all public sewers and sewer disposal works, and of the repair and maintaining of the same. He shall also have charge of the construction, widening, grading, paving, repaving, macadamizing, cleaning, sprinkling, oiling and of the repair and maintenance of the streets of the city. He shall also have charge of the construction of sidewalks, crosswalks, curbs, gutters, hydrants, bridges, culverts, water

³ Words "and except where the expenditure does not exceed the sum of one thousand dollars, and such expenditure is authorized by the board of estimate and apportionment," new.

⁴ Sentence omitted which read: "In case of an emergency an officer or department may incur an expenditure to the amount of one thousand dollars, provided that the expenditure is authorized by the board of estimate and apportionment before such obligation is incurred."

drains, catch basins and openings in streets and the repair and maintenance of the same. He shall also have charge of the construction of surface drains and sewers and the repair and maintenance of the same. It shall be his duty to keep all streets and sidewalks free from incumbrances and for that purpose he may command the assistance of the police department. He shall summarily prevent the construction of or remove any encroachment, obstruction or structure unlawfully upon, over or under a street, and he shall have all the powers and discharge all the duties of town superintendents of highways of this state, except as limited by this act. He shall also have charge of the removal and disposition of ashes, garbage, refuse and dead animals. He is authorized to make contracts for the removal and disposal of the same subject to the approval of the board of estimate and apportionment for a period not to exceed three years.

§ 273. **Street openings and permits therefor.** The commissioner of public works shall have charge of all street openings and shall have power to issue permits therefor and to collect the legal fees for all openings in streets. It shall be the duty of the commissioner of public works, after a street opening has been made, to require that such street be restored to its proper condition.

§ 274. **Performance of public work to be certified.** All public work performed pursuant to contract under the supervision or control of the commissioner shall, before it is accepted, be certified to by him to the effect that such work has been performed in a good and substantial manner with the materials required of the quality and in the manner directed by the terms of the contract under which the same was done. Within ten days after the completion of such work the commissioner shall file a certificate of such completion with the comptroller, treasurer and with the city clerk to be reported by the city clerk to the council. Such certificate shall state in substance that said work has been duly examined by the commissioner and that the same has been fully performed and completed in accordance with the terms of the contract therefor.

§ 275. **City engineer.** The commissioner of public works shall appoint a proper and suitable person, as provided by this act, who shall be city engineer.

§ 276. **Qualifications of city engineer.** No person shall be eligible to appointment to the office of city engineer unless he be a civil engineer of at least three years' practical experience in his profession or a graduate of a technical school or college and be a duly licensed engineer under the laws of the state.

§ 277. **Duties of city engineer.** It shall be the duty of the city engineer to perform all the ordinary engineering and surveying services in the affairs and business of the city and to supervise, under the general direction of the commissioner of public works, all the work done for the city in which the skill of his profession may be required or useful. He shall perform such other duties as may be prescribed by the commissioner of public works, the board of estimate and apportionment or by ordinance of the council.

§ 322
amended.

§ 5. Section three hundred and twenty-two of such chapter is hereby amended to read as follows:

§ 322. Powers and duties. The board of police commissioners shall have charge and control of the administration and discipline of the police department, and of the buildings and equipment thereof. It shall have such jurisdiction over traffic and traffic regulations as may be delegated to it by the council. The several commissioners shall have authority to administer oaths and take evidence, affidavits and acknowledgments in all proceedings relating to the department.

Powers and
duties im-
posed on
commis-
sioners.

§ 6. Wherever any power or duty is imposed upon the board of public works, the commissioner of public works or the commissioner of streets such power or duty is hereby imposed upon the commissioner of public works as herein constituted.

§ 7. This act shall take effect immediately.

CHAPTER 499

AN ACT to amend the Greater New York charter, in relation to the life insurance fund of the fire department of such city.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901, ch.
466, § 792,
as amended
by L. 1908,
ch. 855,
amended.

Section 1. Section seven hundred and ninety-two of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one and amended by chapter three hundred and fifty-five of the laws of nineteen hundred and eight, is hereby amended to read as follows:

LIFE INSURANCE FUND.

§ 792. The life insurance fund shall consist of all moneys that are now to the credit of the New York fire department life insurance fund, and the Brooklyn fire department widows' and orphans' relief fund; and all persons who have paid into the said respective funds, and who shall continue to pay into the life insurance fund, shall receive the benefits of said fund as provided in this chapter. There shall be deducted from the monthly pay of each officer and probationary fireman of said department, and from the monthly pension of retired members of said department, and from the pay of such other employees of said department as shall heretofore have availed themselves of this provision until, as hereinafter provided, the amount of said fund shall equal the sum of fifty thousand dollars,¹ the monthly sum of one dollar,

¹ Following sentence new.

¹ Formerly "twenty-five thousand dollars."

which shall be received and deposited by the treasurer of the relief fund to the credit of the New York fire department life insurance fund, in a bank or trust company to be selected by him and to continue to receive and deposit the funds applicable to the same to the credit of said fund. The said treasurer shall make a semi-annual report verified by him of the condition of said fund containing a statement of all receipts and disbursements for or on account of said fund, together with names of all beneficiaries and the amount paid to each, and file said report in the office of the comptroller. When the amount of such fund shall equal the sum of fifty thousand dollars,¹ assessment shall only be made to maintain said fund at the said sum of fifty thousand dollars.¹ In case of the death of any member or employee of said department, in the service thereof, who has availed himself of this provision, or of any pensioned or retired member of said department, and so contributing, there shall be paid to the widow, or, if there be no widow, then to the legal representatives of such deceased member, or employee, or pensioned and retired member, the sum of two thousand dollars² out of the moneys so assessed; and in case, by reason of the number of deaths, the aggregate amount of money so provided to be assessed and collected should prove inadequate to make such payment, then the assessment may, in the discretion of said trustee, be increased to not exceeding the sum of two dollars in each month's pay or each month's pension of pensioned and retired members of said department. None but members of the uniformed force and probationary firemen shall hereafter be eligible to membership in this fund. If, in any year, owing to an excessive mortality, in the uniformed force, the condition of said life insurance fund shall render it, in the judgment of the said trustee, necessary, a sum not exceeding five thousand dollars may be transferred and paid over from the said relief fund to the said life insurance fund for the use and purpose of said life insurance fund.

§ 2. This act shall take effect immediately.

CHAPTER 500

AN ACT to amend the penal law, in relation to the unauthorized use of motor vehicles.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law, article one hundred and twenty-two, § 1292a, section twelve hundred and ninety-three-a^{1a} is hereby amended to ^{amended.} read as follows:^{2a}

¹ Formerly "twenty-five thousand dollars."

² Formerly "one thousand dollars."

^{1a} As added by L. 1909, ch. 514, and amended by L. 1910, ch. 621.

^{2a} Section materially amended.

§ 1293-a. **Unauthorized use of motor vehicles.** Any person who without the consent of the owner shall take, use, or operate, or cause to be taken, used or operated upon a private or public highway, park, parkway, street, field, inclosure or space, an automobile or motor vehicle, for his own profit, use or purpose, steals the same and is guilty of larceny and shall be punishable accordingly.

§ 2. This act shall take effect immediately.

CHAPTER 501

AN ACT to amend the public health law, in relation to the licensing and registration of midwives, and defining the power and authority of the state department of health in the matter of the licensing and registration of midwives.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Art. 8a
added to
L. 1909,
ch. 49.

Section 1. Chapter forty-nine of the laws of nineteen hundred and nine, entitled "An act in relation to the public health, constituting chapter forty-five of the consolidated laws, and the several acts amendatory thereto," is hereby amended by adding another article thereto, to be designated as article eight-a, to read as follows:

ARTICLE 8-A.

THE LICENSING AND REGISTRATION OF MIDWIVES.

- Section 175. Necessity of registration and license.
 176. Licensed midwives only entitled to register.
 177. Place of registration of midwives.
 178. Application and qualifications.
 179. Duration of license.
 180. Rules and regulations.
 181. Revocation of license.
 182. Failure to observe rules and regulations.
 183. Practices forbidden.
 184. Reports.
 185. Licenses now existing.
 186. Renewal of licenses.
 187. Authority of deputy commissioner of health.
 188. Scope of article.

§ 175. [**Necessity of registration and license.**]¹ On and after the date of the passage of this act, no person other than a duly licensed and registered physician, shall practice midwifery or use the name or title of midwife unless such person shall be duly registered as a midwife with the local registrar of vital statistics, pursuant to

¹ Section heading inserted by editor.

the provisions of section three hundred and eighty-five of the public health law, as amended by chapter six hundred and nineteen of the laws of nineteen hundred and thirteen, and unless such person shall have received a license to practice midwifery from the state commissioner of health.

§ 176. [Licensed midwives only entitled to register.]² On and after the date when this act shall take effect, no person not duly licensed as a midwife shall be registered as a midwife by any registrar of vital statistics.

§ 177. [Place of registration of midwives.]² On and after the date when this act shall take effect, every licensed midwife shall register her name and address with the registrar of vital statistics of the district wherein she resides and of each district wherein she engages in the practice of midwifery, within ten days after the issuance of such license and after any change in her address.

§ 178. [Application and qualifications.]² On and after the date when this act shall take effect, no license to practice midwifery shall be issued unless written application therefor, sworn to by the applicant, has been made in the form prescribed by the state commissioner of health to the state commissioner of health. Every applicant for a license to practice midwifery as hereinbefore provided must possess the following qualifications:

(a) Be not less than twenty-one years of age;

(b) Be able to read and write; provided that in cases of persons of foreign birth who have extended experience or in other exceptional circumstances this requirement may be waived by the state commissioner of health;

(c) Be clean and constantly show evidence, in general appearance and in their homes, of habits of cleanliness;

(d) Either

(1) Possess a diploma from a school for midwives recognized by the state commissioner of health; or

(2) Have attended, under the instruction of a duly licensed and registered physician, not less than fifteen cases of labor and have had the care of at least fifteen mothers and newborn infants during lying-in periods of at least ten days each, and shall present a written statement from said physician or physicians that she has received such instruction in said fifteen cases, with the name, date and address of each case, and that she is reasonably skillful and competent, and establishing the fact that she is reasonably skillful and competent, to the satisfaction of the state commissioner of health, or

(3) Present other evidence satisfactory to the state commissioner of health of her qualifications, and

(e) Present evidence satisfactory to the state commissioner of health of good moral character, in such form as the state commissioner of health by rule or regulation may prescribe.

§ 179. [Duration of license.]² Unless revoked every license to practice midwifery issued by the state commissioner of health shall

²Section heading inserted by editor.

permit the holder thereof to practice midwifery only during the current calendar year in which such license is issued, the term of said calendar year being from January first in any one year to December thirty-first next succeeding.

§ 180. **[Rules and regulations.]**³ The state commissioner of health is hereby authorized and empowered to make such rules and regulations as the state commissioner of health may deem necessary and proper for the supervision and regulation of the practice of midwifery within the state of New York.

§ 181. **[Revocation of license.]**³ The state commissioner of health or his deputy may revoke the license to practice midwifery issued pursuant to the provisions of this article, for cause, after having given the midwife whose license is sought to be revoked, an opportunity to be heard.

§ 182. **[Failure to observe rules and regulations.]**³ All midwives to whom licenses shall be issued pursuant to the provisions of this article, shall conform to all rules and regulations of the state commissioner of health, the provisions of the sanitary code enacted by the public health council, the provisions of the public health law of the state of New York, the rules and regulations of any local board of health, and all lawful orders and directions of the state department of health or any local board of health, or local health officer, and any violation on the part of any midwife of any of the rules and regulations of the state commissioner of health, the sanitary code as adopted by the public health council, the provisions of the public health law or the rules and regulations of any local board of health, or the disobedience of any lawful order of the state department of health or any local department of health or local health officer, shall be sufficient cause for the revocation of any license issued to a midwife and shall also be a sufficient cause for the withholding of any license to practice midwifery from any midwife so offending in any manner as aforesaid by the state commissioner of health.

§ 183. **[Practices forbidden.]**³ A duly licensed and registered midwife may practice midwifery in cases of normal labor and in no others. No midwife shall in any case of labor use instruments of any kind nor assist labor by any artificial, forcible or mechanical means, nor perform version nor attempt to remove adherent placentae nor administer, prescribe, advise or employ any poisonous or dangerous drug, herb or medicine nor attempt the treatment of disease except where the attendance of a physician cannot be speedily secured, and, in such cases, the midwife shall secure the attendance of a physician as soon as possible.

§ 184. **[Reports.]**³ The state commissioner of health is authorized to require of all local health officers a report as to the conduct of the several midwives who may be practicing within the jurisdiction of a local health officer, and it shall be the duty of such local health officers to report truthfully any and all matters pertaining to the conduct of any licensed and registered midwife practicing

³ Section heading inserted by editor.

as such in the jurisdiction of any local health officer. All reports of such local health officers respecting the conduct of such midwives, and all reports of any employees of the state department of health relating to the conduct and deportment of midwives so licensed as provided for in this article, made in the course of and as part of the official duties of such employees of the state department of health, shall be deemed *prima facie* evidence of the facts detailed in said report, and further be deemed sufficient to justify the action of the state commissioner of health in refusing to issue any license to an applicant therefor, where the information as detailed in such reports of any local health officer or the reports of any employee of the state department of health respecting the conduct of any midwife in his judgment justifies the withholding of such a license to such an applicant.

§ 185. [Licenses now existing.]⁴ The state commissioner of health may, by rule or regulation, provide that all licenses issued to midwives for the calendar year nineteen hundred and twenty-two under prior rules or regulations of the state commissioner of health or the public health council, may remain in force and effect until the end of the calendar year nineteen hundred and twenty-two, whereupon all licenses to practice midwifery for the calendar year nineteen hundred and twenty-two shall be issued pursuant to the provisions contained in this article.

§ 186. [Renewal of licenses.]⁴ Each application to renew a license to practice midwifery as heretofore provided, shall be deemed as a new application and shall be supported by the proof of all the qualifications required of midwives as hereinbefore set forth in this article, or as may be required by any rules and regulations of the state commissioner of health, adopted and promulgated pursuant to the provisions of this article, provided, however, that the state commissioner of health may, in cases where his information with respect to the conduct of midwives satisfies the commissioner of health that a person holding a license is properly qualified and has conformed to the provisions of the public health law, the public health council and the rules and regulations of the state department of health in the practice of midwifery, issue a new license to such person upon an application therefor, without demanding proof of all of the qualifications in this article prescribed or which may be prescribed by the rules and regulations of the state commissioner of health.

§ 187. [Authority of deputy commissioner of health.]⁴ All the power and authority conferred upon the state commissioner of health, pursuant to the provisions of this article with respect to the licensing and registration of midwives, may be exercised by the deputy commissioner of health.

§ 188. [Scope of article.]⁴ Every regulation in this chapter, unless otherwise specifically stated, shall take effect throughout the state of New York, except in the cities of New York and Rochester.

§ 2. This act shall take effect immediately.

⁴Section heading inserted by editor.

CHAPTER 502

AN ACT to amend the public lands law, in relation to the disposition of lands and structures owned by the state for canal purposes and no longer necessary or useful therefor.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909, ch. 50, § 59, as added by L. 1916, ch. 299, amended.

Section 1. Section fifty-nine of chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," as added by chapter two hundred and ninety-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 59. **Disposition of proceeds.** The proceeds from a sale or grant of such lands or structures shall be applied to the cost of the improvement which renders such lands or structures no longer necessary, and ¹ the expenses incurred by the attorney-general for searches and examination of the title to such lands shall be deemed an item of the cost of improvement. ²Any surplus from the sale of abandoned lands and structures above the cost of the entire improvement shall be applied to the sinking fund for the payment of the improvement bonds.

§ 2. This act shall take effect immediately.

CHAPTER 503

AN ACT to amend chapter forty-three of the laws of nineteen hundred and twenty-one, entitled "An act to provide for indexing and reindexing conveyances, mortgages and other instruments relating to lands and liens thereon in the county of Richmond," generally.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1921, ch. 43, §§ 1, 4, 5, 11, 13, 14, 20, 23, 29, 30, 32 amended.

Section 1. Sections one, four, five, eleven, thirteen, fourteen, twenty, twenty-three, twenty-nine, thirty and thirty-two of chapter forty-three of the laws of nineteen hundred and twenty-one, entitled "An act to provide for indexing and reindexing conveyances, mortgages and other instruments relating to lands and liens in the county of Richmond," are hereby amended to read, respectively, as follows:

Instruments to be recorded and indexed.

§ 1. Every instrument affecting real estate or chattels real, situate in the county of Richmond, which shall be recorded in the office of the county clerk of said county on and after the first day of July, nineteen hundred and twenty-three,^{1a} shall be recorded and indexed pursuant to the provisions of this act.

¹ Remainder of sentence new.

² Following sentence formerly part of preceding sentence.

^{1a} Formerly "nineteen hundred and twenty-two."

§ 4. The said clerk of the county shall also cause the blocks or parcels of land shown on said map to be numbered thereon, by block numbers, from number one, ³ upward.

Blocks to be numbered.

§ 5. For the purpose of notice under this act, each block shall be deemed to extend to the middle line of the streets, avenues, roads and boulevards, then or thereafter laid out on said land map fronting and adjoining such block, and shall also be deemed to extend to the exterior pierhead or water grant line ⁴ where water forms one of the boundaries of a block.

Boundaries of blocks.

§ 11.⁴ Whenever any instrument affecting or relating to land in said county entitled to be recorded and required to be indexed under the provisions of this act shall be presented to said clerk for record, he will forthwith indorse the date, hour and minute of its receipt by him and enter in the proper index or tickler the names of every party executing the said instrument, the date of the record thereof and the number of every block designated as aforesaid for the indexing of such instrument, and within ninety days thereafter shall cause the said instrument to be indexed in the proper book or books of block indices under the block number.

Instruments to be indorsed and indexed.

§ 13. The entries made in said indices, in conformity with the requirements of this act ⁵ shall for the purpose of notice be deemed and taken to be a part of the record of the instruments to which such entries respectively refer, and shall be notice to such subsequent purchasers or incumbrancers to the same extent and with like effect as the recording of such instruments in the office of said clerk now is or may be noticed.

Index entries part of record.

§ 14. Said clerk on or after the first day of July, nineteen hundred and twenty-three,⁶ shall keep in his office lexicographical indices containing lists of the names of all grantors and grantees of land, entered from time to time on the block index of conveyances in his office, referring after the names of such grantors and grantees to the date of record and the liber and page of the record of the instrument to which they are parties, and to the section and block affected by such instruments. He shall keep similar indices of mortgagors and mortgagees, but the indices herein provided for shall not be deemed to be a part of the record of the instrument to which they refer for the purpose of notice or otherwise. And the said clerk, after the first day of July, nineteen hundred and twenty-three,⁶ shall not be required to keep any other indices other than those provided for in this act.

Lexicographical indices.

Indices required to be kept.

§ 20. The said board of estimate and apportionment is hereby authorized, in its discretion, from time to time to determine the amounts of money not herein otherwise provided for which may be required to carry out the provisions of this act until the first day of January, nineteen hundred and twenty-four,⁷ and to appro-

Appropriation and bond issue authorized.

² Word "consecutively" omitted.

³ Words "pierhead or water grant line" substituted for words "bulkhead line."

⁴ Section 11 materially amended.

⁵ Words "except the diagrams inserted opposite its record of the instruments as provided by section eleven of this act," omitted.

⁶ Formerly "nineteen hundred and twenty-two."

⁷ Formerly "nineteen hundred and twenty-three."

priate said moneys therefor, and the moneys so appropriated shall be raised by the issue of bonds of the city of New York, as by the charter of the city of New York provided.

Entries in
index
books.

§ 23. Upon the completion of the said index books, so directed to be prepared, the said clerk shall cause to be reindexed therein subject to his direction, under the sections, blocks and block numbers shown on the land map of said county, and, so far as practicable, on the same general plan as entries are hereinbefore required to be made in the block indices in the office of said clerk, all conveyances, mortgages and other instruments which were recorded or filed in the office of said clerk, prior to the first day of July, nineteen hundred and twenty-three,⁸ except executory contracts for the sale of land, mortgages satisfied of record, satisfaction of mortgages, releases from mortgages which have been satisfied, and leases which by their terms have expired.

Preparation
of books
for future
indexing
of notices
of liens and
claims on
land.

§ 29. The said county clerk is also hereby directed to cause to be prepared, under his direction, suitable index books for the future indexing therein upon said block plan of indexing of all statutory notices of liens or claims on land other than *lis pendens* which may be filed or recorded in his office, on and after the first day of July, nineteen hundred and twenty-three.⁹ Such index books shall be known and designated as the block index of liens, and shall be ruled for entering therein the names of the lienor and of the owner of the property affected, the amount claimed to be due as shown by the notices, and the date of the satisfaction thereof, and said indices shall be of such other general form as said clerk may determine and each of said books indexed on the block plan shall contain entries relating only to the section of which the number and designation is indorsed in said book, and said indices shall be of such other general form as said county clerk may determine. In cases in which it is not practicable, in the opinion of said county clerk, to index some of the liens in this section mentioned, under said blocks, then the said county clerk may prepare such other form of indices as he shall think best. All such books shall be indorsed with their proper designation, and so as to show the liens to be indexed therein, the section and blocks on the land map of the said county to which they relate, and the periods of time covered by them, respectively.

Clerks and
assistants.

§ 30.⁹ For the purpose of carrying out all the various provisions of this act, the county clerk may employ an expert who shall act as superintendent and such clerks and assistants and other expert persons as may in his judgment be required in his office, provided, however, that all of the expenses, including printing, stationery and material as may be necessary for the purposes of this act, and for carrying out all the provisions of this act, shall not in any

Limitation
of expenses.

⁸ Formerly "nineteen hundred and twenty-two."

⁹ Section 30 is not, in fact, amended. The original bill, as introduced in the legislature, sought to amend this section, but in course of passage the proposed amendment was eliminated.

event exceed the amount or amounts authorized by the said board of estimate and apportionment, or otherwise specifically provided for by this act, or other existing law.

§ 32. The board of estimate and apportionment of the city of New York is hereby authorized to include in the final estimate of the moneys to be raised by taxation in said county for the year nineteen hundred and twenty-two,¹⁰ and the succeeding years if required, the amounts of money not otherwise provided for which may be required by said county clerk to carry out the provisions of this act and to appropriate said moneys therefor, and the comptroller of the city of New York is authorized and directed to pay, out of the amounts so required and appropriated, the expenses authorized by this act, upon the requisition of the said county clerk for the amounts required in his office, and said comptroller is authorized to raise whatever money may be required, not otherwise provided for from time to time, by the issue of city bonds in such amounts, in such series and payable at such time as the comptroller may determine, bearing interest at a rate not to exceed four per centum and not to be sold at less than par, provided that the total amount of such bonds shall not exceed the amount actually appropriated or required to carry out the provisions of this act.

Provision
for moneys
required.

§ 2. Schedule D of such chapter is hereby repealed and schedules A, B and C thereof are hereby amended to read as follows:¹¹

Schedule D
repealed;
schedules
A-C
amended.

SCHEDULE A

Section _____ Block _____

GRANTORS	GRANTEES	Date recorded	Conveyance		Lot No.	Remarks
			Liber	Page		

¹⁰ Formerly "nineteen hundred and twenty-one."

¹¹ Schedules materially amended.

CHAPTER 504

AN ACT to amend the railroad law, by adding a new section providing that a domestic railroad corporation, other than a street railroad corporation, owning at least three-fourths of the capital stock of another domestic railroad corporation, other than a street railroad corporation, may acquire the minority stock of such other domestic railroad corporation upon an appraised valuation in aid of merger.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four hundred and eighty-one of the laws of nineteen hundred and ten, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws," is hereby amended by adding thereto at the end of article four thereof a new section, to be section one hundred and sixty, and to read as follows:

§ 160. **Condemnation of minority stock in aid of merger.** A domestic railroad corporation, other than a street surface railroad corporation, owning and operating a railroad wholly in this state, which has lawfully acquired at least three-fourths of the issued and outstanding shares of the capital stock of another domestic railroad corporation, other than a street surface railroad corporation, owning and operating a railroad wholly in this state, and which desires to acquire the remainder of the shares of such outstanding stock and to merge such other corporation pursuant to section fifteen of the stock corporation law, and cannot agree with the holders for the purchase thereof, may acquire the remainder of the shares of said outstanding stock as herein provided, if the public service commission, or the transit commission if the railroads or both corporations are exclusively within a city containing a population of over one million inhabitants according to the last preceding federal census or state enumeration, shall have first granted its permission for the acquisition and merger. Such corporation may apply by petition to the supreme court, at any special term thereof held in the judicial district wherein is located the principal office of the corporation, the shares of whose stock are sought to be acquired, for the appointment of three persons to appraise the value of the said shares of stock. The petition shall set forth fully the facts justifying such application under the provisions of this section, and shall state the names of each of the holders of record of such shares of stock. Notice of the time and place of the presentation of such application together with a copy of the petition, must be served upon each of the holders of record of such stock and upon the public service commission, or the transit commission if the railroads of both corporations are exclusively within a city containing a population of over one million inhabitants according to the last preceding federal census or state enumeration, at least

§ 160
added to
L. 1910,
ch. 481.

twenty days before such presentation. Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made. If the court shall find, after hearing all the interested parties who may appear, that the acquisition by the petitioner of such remaining stock will be for the public interest, the court shall appoint three disinterested appraisers, and designate the time and place of their proceedings. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and appraise the value per share of such stock, and shall return to the court their written report of such appraisement, together with the minutes of testimony taken by them. They shall be entitled to the same fees and necessary expenses as are commissioners appointed in proceedings for the condemnation of real property, which fees and expenses shall be paid by the petitioner. Upon confirmation of the report of the appraisers by the court, the court shall make a final order adjudging that upon payments by the petitioner either directly or into court as hereinafter provided, the holders of record of the stock which has been appraised shall cease to have any interest in such stock, and all of their right, title and interest in said stock shall vest in the petitioner. The petitioner may pay the value of the stock as appraised directly to the several holders of record thereof or any of them, upon the surrender to petitioner of the certificates representing the stock paid for with duly executed powers of attorney for transfer to the petitioner, or the petitioner may pay the value as appraised into court for the account of the several holders or any of them. The holders of stock before receiving the amounts so paid into court shall deposit in court for delivery to the petitioner their certificates of stock with duly executed powers of attorney for transfer to the petitioner, but the right, title and interest in the stock shall vest in the petitioner immediately upon the payment into court of the value as appraised. The final order shall direct that after the expiration of sixty days from the entry thereof any holder of stock which has been appraised but has not been paid for either directly or by payment into court may, upon filing in the office of the clerk of the county where the petitioner's principal place of business is situated for delivery to the petitioner the certificate or certificates of such stock with duly executed powers of attorney for transfer to the petitioner, enter a money judgment against the petitioner for the amount at which said stock has been appraised, and may have execution thereon. Upon satisfaction of such judgment all the right, title and interest in and to such stock shall vest in the petitioner and the certificate or certificates with the powers of attorney shall be delivered to the petitioner.

§ 2. This act shall take effect immediately.

CHAPTER 505

AN ACT to amend the stock corporation law, in relation to issuance of preferred and common stock.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-one of chapter sixty-one of the laws of nineteen hundred and nine, entitled "An act relating to stock corporations, constituting chapter fifty-nine of the consolidated laws," as amended by chapter five hundred and forty-two of the laws of nineteen hundred and seventeen, and chapter six hundred and nine of the laws of nineteen hundred twenty and by chapter one hundred and thirty-one of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1909, ch. 61, § 61, as amended by L. 1917, ch. 542, L. 1920, ch. 609, and L. 1921, ch. 131, amended.

§ 61. **Preferred and common stock.** Every domestic stock corporation may issue preferred stock and common stock and different classes of preferred stock, if the certificate of incorporation so provides, or

1. By the unanimous consent of the stockholders expressed in writing and filed in the office of the secretary of state and in the office of the clerk of the county in which the principal business office of the corporation is located, or

2. By the consent of the holders of record of two-thirds of the capital stock, given at a meeting called for that purpose upon notice such as is required for the annual meeting of the corporation. A certificate of the proceedings of such meeting, signed and sworn to by the president or a vice-president, and by the secretary or assistant secretary, of the corporation, shall be filed in the offices where the original certificate of incorporation of such corporation was filed and recorded; and the corporation may, upon the written request of the holders of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, upon such valuation as may have been agreed upon in the certificate of organization of such corporation, or the issue of such preferred stock, or share for share, but the total amount of such capital stock shall not be increased thereby.

This section shall apply to any domestic stock corporation whether organized under a general or special law, other than the banking law,¹ and any ²corporation to which this section is applicable ³ may issue preferred stock and common stock as herein provided notwithstanding provisions relating to the issuance of stock now prescribed by any other law.

§ 2. This act shall take effect immediately.

¹ Words "other than the banking law" new.

² Word "such" omitted.

³ Words "to which this section is applicable" new.

CHAPTER 506

AN ACT to amend chapter four hundred and forty-five of the laws of nineteen hundred and twenty, entitled "An act to authorize the improvement of certain streets in the city of Syracuse," in relation to streets to be improved.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1920, ch.
446, § 1
amended.

Common
council
may order
improve-
ment of
certain
streets;
plans; as-
sessment
of cost.

Section 1. Section one of chapter four hundred and forty-five of the laws of nineteen hundred and twenty, entitled "An act to authorize the improvement of certain streets in the city of Syracuse," is hereby amended to read as follows:

§ 1. The common council of the city of Syracuse is hereby given jurisdiction to order the improvement of the parts of streets herein named, with such kind or kinds of road surface as shall be designated by the paving commission of said city. Whenever any of the parts of streets herein specified shall be ordered improved, the common council shall order plans and specifications of such improvements to be made and filed with the city clerk by the city engineer. Such part of the cost of such improvement as shall not be made a general city charge by ordinance of the common council, approved by the board of estimate and apportionment, shall be ordered assessed upon the abutting property and shall be levied and collected in the same manner as other assessments levied for pavements in the city of Syracuse. The following streets or parts of streets may be improved pursuant to this act: East Colvin street from its crossing with the Delaware, Lackawanna and Western railroad to the Nottingham road at the east line of the city of Syracuse; Jamesville plank road from East Colvin street to the city line; East Brighton avenue from the end of the present pavement near the Delaware, Lackawanna and Western railroad crossing to the city line; ¹ Grand avenue from its intersection with Delaware street to the west line of the city of Syracuse. The laying of water, gas and heating mains, sewer inlets, electrical subways and conduits, service pipes and sewers in such streets or parts of streets shall not be required as a condition precedent to the improvement thereof under the provisions of this act, and such streets, when so improved, shall not be paved except in accordance with the provisions of law governing the paving and repaving of other public streets in the city of Syracuse.

§ 2. This act shall take effect immediately.

¹ Remainder of sentence new.

CHAPTER 507

AN ACT to amend the tax law, in relation to the franchise tax on business corporations.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision nine of section two hundred and eleven of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as added by chapter six hundred and forty of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1909, ch. 62, § 211, subd. 9, as added by L. 1920, ch. 640, amended.

9. Any corporation owning or controlling, either directly or indirectly, substantially all of the capital stock of another corporation, or of other corporations, liable to report under this article, may be required to make a consolidated report showing the combined net income, such assets of the corporations as are required for the purposes of this article, and such other information as the tax commission may require, but excluding intercorporate stockholdings and intercorporate accounts.

Combined report of holding corporation.

The tax commission may permit or require² the filing of a combined report where substantially all the capital stock of two or more corporations liable to taxation under this article is owned by the same interests. The tax commission may impose the tax provided by this article as though the combined entire net income and segregated assets were those of one corporation, or may, in such other manner as it shall determine, equitably adjust the tax.

Where any corporation liable to taxation under this article conducts the business whether under agreement or otherwise in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business by selling its products or the goods or commodities in which it deals at less than a fair price which might be obtained therefor, or where such a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning the substantial portion of its capital stock in such a manner as to create a loss or improper net income, the tax commission may require such facts as it deems necessary for the proper computation provided by this article, and may for the purpose of the act determine the amount which shall be deemed to be the entire net income of the business of such corporation for the calendar or fiscal year, and in determining such entire

Unfair practices.

¹ Section 211 was added by L. 1917, ch. 726.

² Words "or require" new.

net income the tax commission shall have regard to the fair profits which, but for any agreement, arrangement or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

§ 212, as added by L. 1917, ch. 726, and amended by L. 1919, ch. 628, amended.

§ 2. Section two hundred and twelve of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and amended by chapter six hundred and twenty-eight of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 212. **Reports by corporation on basis of fiscal year.** A corporation which reports to the United States treasury department on the basis of its fiscal year, may report to the tax commission upon the same basis, except as provided in section two hundred and fourteen-a of this chapter. ³ Any corporation which has been permitted to change the period for which it shall make its report shall, in its next report to the tax commission, include its entire net income which has not been used or included in measuring a franchise tax to this state whether such income arose over a period of more or less than one year.

Subd. 8 added to § 214, as added by L. 1917, ch. 726.

§ 3. Section two hundred and fourteen of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and last amended by chapter seven hundred and five of the laws of nineteen hundred and twenty-one, is hereby amended by adding at the end thereof a new subdivision, to be subdivision eight, to follow subdivision seven and to read as follows:

8. If any corporation has been permitted to change the period for which it shall make its report, it shall be taxed upon the entire net income which has not been used or included in measuring a franchise tax to this state as though the entire net income had been earned within one year.

§ 216, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 4. Section two hundred and sixteen of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen, and amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 216. **Penalty for failure to report.** Any corporation which fails to make any report required by this article shall be liable to a penalty of not more than five thousand dollars to be paid to the state, to be assessed and ⁴ collected in the manner provided for the assessment and collection of taxes under this article, or in ⁵ a civil action, at the instance of the tax commission; and any officer of any such corporation who makes a fraudulent return or statement with intent to defeat or evade the payment of the taxes prescribed by this article shall be liable to a penalty of not more than one thousand dollars, to be assessed and ⁴ collected in like manner.

³ Remainder of section new.

⁴ Words "assessed and" new.

⁵ Words "the manner provided for the assessment and collection of taxes under this article, or in," new.

§ 5. Section two hundred and eighteen of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,⁶ is hereby amended to read as follows:

§ 218, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 218. **Revision and readjustment of accounts by tax commission.** If an application for revision be filed with the commission by a corporation against which an account is audited and stated within one year from the time any such account shall have been audited and stated, the commission shall grant a hearing thereon, and if it shall be made to appear upon any such hearing by evidence submitted to it or otherwise, that any such account included taxes or other charges which could not have been lawfully demanded, or that payment has been illegally made or exacted of any such account, or if it appears that the tax as originally assessed was less than should have been exacted,⁷ the commission shall resettle the same according to law and the facts by increasing or diminishing the taxes and other charges, and adjust⁸ the accounts⁹ accordingly, and may, in its discretion, modify the penalty imposed for failure to report as provided in this article, and shall send notice of its determination thereon to the corporation forthwith.

¹⁰ If it appears from such reassessment that such corporation shall have paid an excess of tax under this article for the year for which such reassessment is made, the tax commission shall credit such corporation with such amount. Such credit may be assigned by the corporation in whose favor it is allowed to a corporation liable to pay taxes under this article, and the assignee of the whole or any part of such credit, on filing with the commission such assignment, shall thereupon be entitled to credit upon the books of the tax commission for the amount thereof on the current account for taxes of such assignee, in the same manner and to the same effect as though the credit had originally been allowed in favor of such assignee, or the amount of such credit, without interest, may be refunded to such corporation out of any revenues received under this article to the credit of the state comptroller, at the direction of the state tax commission.

The amount or amounts of such excess shall be charged against the state treasury and the taxing district or districts in the proportions that such excess was originally credited or paid. In case the amount of current revenues credited to any taxing district, under this article, is not equal to the charge against any such taxing district on account of any such refund, further revenues credited to such taxing district shall first be applied to the liquidation of such charge.

⁶ Previously amended by L. 1920, ch. 640.

⁷ Words "or if it appears that the tax as originally assessed was less than should have been exacted," new.

⁸ Words "by increasing or diminishing the taxes and other charges, and adjust," new.

⁹ Words "for taxes" omitted.

¹⁰ Remainder of section new.

§ 219a, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 6. Section two hundred and nineteen-a of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,¹¹ is hereby amended to read as follows:¹²

§ 219-a. **Audit and statement of tax.** The tax commission shall audit and state the account of each corporation known to be liable to a tax under this article, as hereinbefore provided, and shall compute the tax thereon and proceed to collect the same. The tax commission shall determine the portion of such tax to be distributed to the several counties and the amounts to be credited to the several cities or towns thereof, when the same is collected and shall certify the same to the state comptroller.

§ 219c, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 7. Section two hundred and nineteen-c of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,¹³ is hereby amended to read as follows:

§ 219-c. **When tax payable.** The tax hereby imposed shall be paid to the state tax commission on or before the first day of January of each year, or within thirty days after notice of the tax has been given as provided in section two hundred and nineteen-b of this chapter if such notice is given subsequent to the first day of December of the year for which such tax is imposed. If such tax be not so paid, or in the case of additional taxes, if not paid within thirty days after notice of such additional tax has been given as provided in section two hundred and nineteen-d of this chapter and such notice of additional tax is given subsequent to the first day of December of the year for which such additional tax is imposed, the corporation liable to such tax shall pay to the state tax commission, in addition to the amount of such tax, or additional tax, ten per centum of such amount, plus one per centum for each month the tax or additional tax remains unpaid, but the state tax commission upon submission to it of satisfactory proof that the failure to pay such taxes, or additional taxes, within the time prescribed in this article, was not willful or evasive, may modify the exaction to not less than one per centum for each month following the due date of the tax. Each such tax or additional tax shall be a lien upon and binding upon the real and personal property of the corporation liable to pay the same¹⁴ until the same is paid in full.

§ 219d, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 8. Section two hundred and nineteen-d of such chapter, as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen, and last amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one,¹⁵ is hereby amended to read as follows:

¹¹ Previously amended by L. 1919, ch. 628.

¹² Section materially amended.

¹³ Previously amended by L. 1918, ch. 271; L. 1919, ch. 628; L. 1920, ch. 640.

¹⁴ Words "from the time when it is payable" omitted.

¹⁵ Previously amended by L. 1918, ch. 276; L. 1919, ch. 628.

§ 219-d. **Corrections and changes.** If the amount of the net income for any year of any corporation taxable under this article as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, such corporation, within ten days after receipt of notice of such change or correction, shall make return under oath or affirmation to the tax commission of such changed or corrected net income, and shall concede the accuracy of such determination or state wherein it is erroneous.

The tax commission shall ascertain, from such return and any other information in the possession of the commission, the entire net income of such corporation for the fiscal or calendar year for which such change or correction has been made by such commissioner of internal revenue or other officer or authority. All the authority conferred on the tax commission by the provisions of section one hundred and ninety-five of this chapter is hereby granted to it in respect to the ascertainment of such entire net income. The tax commission shall thereupon readit and restate the account of such corporation for taxes based upon the entire net income as changed or corrected¹⁶ for such fiscal or calendar year but without change of the segregation of assets upon which the original assessment was based,¹⁷ such readit to be according to the entire net income so ascertained by the tax commission. The proceedings and determination of the tax commission in the making of such reassessment may be revised and readjusted and reviewed in the manner provided by sections two hundred and eighteen and two hundred and nineteen of this chapter, as in the case of an original assessment of the tax. If from such reassessment it appears that such corporation shall have paid under this article an excess of tax for the year for which such reassessment is made, the tax commission shall credit such corporation with such amount. Such credit may be assigned by the corporation in whose favor it is allowed to a corporation liable to pay taxes under this article, and the assignee of the whole or any part of such credit on filing with the commission such assignment shall thereupon be entitled to credit upon the books of the tax commission for the amount thereof on the current account for taxes of such assignee in the same way and with the same effect as though the credit had originally been allowed in favor of such assignee;¹⁸ or the amount of such credit, without interest, may be refunded to such corporation out of any revenues, received under this article, to the credit of the state comptroller, at the direction of the state tax commission.¹⁹ The amount or amounts of such excess shall be charged against the state treasury and the taxing district or districts in the proportions that such excess was originally credited or paid.¹⁹ In case the amount of

¹⁶ Words "as changed or corrected" new.

¹⁷ Words "but without change of the segregation of assets upon which the original assessment was based," new.

¹⁸ Remainder of sentence new.

¹⁹ Following sentence new.

current revenues credited to any taxing districts under this article, is not equal to the charge against any such taxing district on account of any such refund, further revenues credited to such taxing district shall first be applied to the liquidation of such charge. If from such reassessment it appears that an additional tax is due from such corporation for such year, such corporation shall, within thirty days after notice has been given as provided in section two hundred and nineteen-b of this chapter by the tax commission, pay such additional tax.

§ 219c, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 9. Section two hundred and nineteen-f of such chapter, as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 219-f. **Action for recovery of taxes; forfeiture of charter by delinquent corporations.** Action may be brought at any time by the attorney-general at the instance of the tax commission, in the name of the state, to recover the amount of any taxes, penalties and interest due, or compel the filing of reports due,²⁰ under this article. If such taxes be not paid, or reports filed,²¹ and the tax commission is satisfied that the failure to pay or file²² the same is intentional, it may²³ so report to the attorney-general, who shall immediately bring an action in the name of the people of the state, for the forfeiture of the charter or franchise of any corporation failing to make such payment, or file such reports,²⁴ and if it be found that such failure was intentional, judgment shall be rendered in each action for the forfeiture of such charter and for its dissolution if a domestic corporation and if a foreign corporation for the annulment of its franchise to do business in this state.

§ 219g, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 10. Section two hundred and nineteen-g of such chapter as added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen and amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:²⁵

§ 219-g. **Deposit of revenues collected.** The state tax commission shall deposit daily to the credit of the state comptroller on account of the franchise tax all taxes, interest and penalties collected under this article in a responsible bank, banking house or trust company in the state to be designated by the state comptroller and which shall pay the highest rate of interest to the state for such deposit. And such bank, banking house or trust company shall execute and file in the office of the state comptroller an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller, for the safe

²⁰ Words "or compel the filing of reports due" new.

²¹ Words "or reports filed" new. Words "within one year after the same be due" omitted.

²² Words "or file" new.

²³ Word "may" substituted for word "shall."

²⁴ Words "or file such reports" new.

²⁵ Section 219g materially amended.

keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon, or annexed thereto, the approval of the attorney-general as to its form. The state tax commission shall on the first day of each month make a verified return to the state treasurer of the aggregate amount of all revenues received by it under this article during the preceding month. The tax commission shall in due time for the distribution thereof certify to the comptroller the apportionment to the various municipal subdivisions of the state the share of taxes received under this article to which they are entitled and the comptroller shall distribute such share of the tax moneys in accordance with the provisions of this article.

§ 11. The portion of section two hundred and nineteen-h of such chapter preceding subdivision one thereof, as amended by chapter four hundred and forty-three of the laws of nineteen hundred and twenty-one²⁶ such section having been added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 219h, part preceding subd. 1, as added by L. 1917, ch. 726, and amended by L. 1921, ch. 443, amended.

§ 219-h. **Disposition of revenues collected.** The state comptroller shall on or before the twenty-fifth day of each month pay into the state treasury to the credit of the general fund all interest and penalties and two-thirds of all taxes deposited²⁷ under this article during the preceding calendar month. The balance of all taxes deposited²⁸ under this article²⁹ shall, on or before the twenty-fifth day of April, July, October and January, for the quarter ending with the last day of the preceding month, be distributed and paid by him to the treasurers of the several counties of the state and disposed of by such treasurers, in accordance with the following rules:

§ 12. This act shall take effect immediately.

²⁶ Previously amended by L. 1918, ch. 417.

²⁷ Word "deposited" substituted for words "received by him."

²⁸ Word "deposited" substituted for words "collected and received by him."

²⁹ Words "from any corporation, as appears from the return made by him to the state treasurer," omitted.

CHAPTER 508

AN ACT to amend chapter three hundred and ninety-three of the laws of nineteen hundred and six, entitled "An act to create and establish a policemen's relief and pension fund for the police department of the city of Utica and authorizing the granting and payment of relief and pensions to the officers and members of said department entitled thereto," generally.¹

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1906, ch. 393, § 1, subd. 4, as amended by L. 1920, ch. 516, amended.

Section 1. Subdivision four of section one of chapter three hundred and ninety-three of the laws of nineteen hundred and six, entitled "An act to create and establish a policemen's relief and pension fund for the police department of the city of Utica and authorizing the granting and payment of relief and pensions to the officers and members of said department entitled thereto," as amended by chapter five hundred and sixteen of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

Police department defined.

4. The term "police department" shall mean and include the chief of police, the deputy chiefs of police, the captains, lieutenants, sergeants, detectives, patrolmen, policemen, police women, clerk of the chief of police, chauffeurs, finger print expert, matrons and signal operator of the police force of said city now in office or hereafter appointed to office by the commissioner of public safety.

§§ 4, 5, as amended by L. 1920, ch. 516, amended.

§ 2. Sections four and five of such act, as amended by chapter five hundred and sixteen of the laws of nineteen hundred and twenty, are hereby amended to read as follows:

§ 4. **Relief of first grade men on retirement from service, et cetera.** Every officer or member of the police department who has attained the rank of first grade, or who has been appointed a member of the police department prior to January first, nineteen hundred and twenty, and has served in said department for five years or more since such appointment, shall be paid from said fund on his retiring hereafter from service in said department by reason of resignation, death, or any other cause, the sum of three hundred dollars, provided, however, that no such payment or any part thereof, shall be made to any officer or member who at the time of such retirement, is receiving or entitled to receive a pension under the provisions of section five of this act as amended hereby.

§ 5. **Pension when payable, et cetera.** Any officer or member of the police department, who may be found on examination by the surgeon of the department duly certified under oath, disqualified physically or mentally for the performance of his duties

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

in the department by reason of long service or disease or disability caused or induced by the active performance of the duties of his position, without fault or misconduct on his part, may during the continuance of such disability, be retired by the commissioner of public safety; provided that if such officer or member object to being so retired, he may demand an examination as to such disability by three competent physicians or surgeons of good repute and standing, one to be selected by the commissioner of public safety, one by such officer or member, and the third by the two physicians or surgeons selected by the commissioner, officer or member as aforesaid, and the three so selected shall examine such officer or member and the findings of a majority of such examiners shall be final as to the ability or disability at the time of such officer or member to perform his full duty and if found able he shall be returned to duty at the same salary and rank then paid and held by him. Any officer or member retired under the preceding provisions of this section unless he has served at least twenty years in said department, shall, however, remain under the orders of the commissioner who may order him at any time to do such duty of which he is capable as may be decided to be for the best interests of said department, and while so serving he shall be paid the same salary as that received by the other members of the department of the same rank. Every officer or member of said department who may have become permanently incapacitated from performing full duty as such officer or member by reason of age or of disease or disability caused or induced by injury or by long service and exposure while in the line of his duty, without fault or misconduct on his part, may, on his own application, be retired from service by the commissioner of public safety, provided the applicant has been examined by three physicians or surgeons selected as aforesaid and their sworn certificate signed by a majority of such examiners filed with the commissioner, showing that the applicant is permanently disqualified from performing his duties in said department. Every officer or member of said department who shall have served therein for twenty years or more since June first, eighteen hundred and seventy-four, shall upon his own application, without examination or certification, be retired from membership therein. A pension shall be granted and paid to each person retired under the provisions of this section to the amount of six hundred dollars per year payable monthly. No officer or member of said department shall be entitled to any allowance as pension during the time he shall be receiving full salary from said police department. In case said fund shall not be sufficient to pay the full amount of pensions in this section mentioned, such pensions shall be diminished pro rata as the condition of said fund shall require, and shall be paid in proportion to the amounts payable therefrom to the persons entitled thereto. The time of the clerk, chauffeurs, finger print expert, matrons, police women and signal operator heretofore connected with said police department, so as to compute the twenty year

period defined in this section, shall not be figured except from the date that such individual became a contributor to this pension fund, unless such clerk, chauffeur, finger print expert, matrons, police women and signal operator shall have been connected with said department for a period exceeding ten years prior to May fourth, nineteen hundred and twenty, in which event he may become a full participating member from the date of his connection with the police department, by paying into said fund in a lump sum such amount of moneys, with two per centum per annum added for interest, as would have been paid by him had he been a contributing member all of such period of time. Such payment to be effective must be made within three months after the time this amendment takes effect.

§ 3. This act shall take effect immediately.

CHAPTER 509

AN ACT to amend the village law, in relation to correction of errors in assessment-rolls by village boards of trustees, in certain villages.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 109a
added to
L. 1909,
ch. 64.

Section 1. Chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended by inserting therein a new section, to be section one hundred and nine-a, to read as follows:

§ 109-a. **Correction of errors in assessment-rolls by village boards in certain villages.** If it shall be made to appear to the village board of any village in a county having a population of more than three hundred thousand according to the last federal or state census or enumeration, adjoining a city of the first class having a population of one million and upwards upon the verified petition of a majority of the assessors of said village;

1. That any taxable property therein has by mistake been placed on the assessment-roll thereof for the current year, at a value different from what the assessors intended for such property; such board may cause the same to be corrected and if the value is increased to cause to be inserted thereon the additional amount of tax or assessment due therefrom and if the value is decreased to cause to be credited thereon so much of the tax or assessment as is represented by the amount of decrease.

2. That any taxable property therein has been omitted from any assessment-roll for the preceding year, such board shall cause the same to be inserted on the roll for the current year at a valuation to be fixed by the assessors in their petition, which shall be the value for the year omitted and shall also cause to be inserted thereon in addition to the amount of tax or assessment for the

current year in a separate column properly designated, the amount of tax or assessment which such property should have borne for the year when such property was omitted, which shall be at the rate per centum of the omitted year.

3. That any taxable property therein has been omitted from the assessment-roll for the current year, such board shall cause the same to be placed thereon at a value to be fixed by the assessors in their petition and shall cause the amount of tax or assessment to be placed thereon which shall be at the rate per centum of the current year.

4. That any taxable property therein has been assessed erroneously or illegally on the assessment-roll for the current year, such board shall cause such value of assessment and the tax or assessment thereon to be cancelled.

5. That any taxable property therein has been assessed in any assessment-roll thereof including the current roll with property of another, or another person, or persons, have become owners of a part or parts of such property since the making of such roll, such board may cause the assessed valuation and the amount of tax or assessment thereon to be apportioned accordingly.

6. That any taxable property therein was indefinitely assessed, or for good and sufficient reason the tax or assessment on the same was not paid, such board may waive the penalties, charges, costs and interest thereon.

A copy of the petition under the first, second or third subdivision of this section, with a notice of the presentation thereof to the village board shall be served in such manner as the village board may direct or approve on the person or corporation alleged to be liable to taxation and the village board shall take no action on such petition unless proof of the manner of service of such petition and notice be made to them by affidavit. The village board shall give to the person alleged to be liable to taxation for such property an opportunity to be heard and on such hearing and review, the village board shall have all the powers that the assessors have in reviewing and correcting the assessment-roll. If under the fourth subdivision of this section any tax or assessment shall be erroneous, such village board shall cause the same to be reassessed in a proper manner. If under the first subdivision of this section the value of the assessment is decreased such board shall cause so much of the tax not due to be refunded if same has been paid. If under the fourth subdivision of this section any tax or assessment is illegal or erroneous, such board shall cause the same to be refunded or adjusted if same has been paid. If under the fifth subdivision of this section any tax or assessment is appropriated, the collector of taxes or the village treasurer, whichever shall be entitled thereto, shall receive the same separately when so apportioned. If under the sixth subdivision of this section any penalty, charge, cost or interest on any tax or assessment is waived, the collector of taxes or the village treasurer whichever shall be entitled thereto shall receive the amount of tax or assessment without such when a certified copy

of the resolution waiving the same is filed with him. If under the fourth subdivision of this section any tax or assessment shall be illegal or under the first subdivision of this section any tax or assessment shall be decreased, or in case of a reassessment of an erroneous tax or assessment, the amount of tax or assessment finally due is less than the amount of tax or assessment as shown on the roll, before such tax or assessment was found to be erroneous, the amount thereof, or the amount of difference of such tax or assessment as the case may be, shall be included in the next levy of taxes made for such village. Any omitted taxable real property added to the rolls, as herein provided, or any reassessment of any tax or assessment as herein provided, or any correction of an error as herein provided, by which the tax is made greater than was the original assessment shall not be a lien on the real property for such additional amount as against purchasers or mortgagees in good faith.

§ 2. This act shall take effect immediately.

CHAPTER 510

AN ACT to amend the conservation law, in relation to the establishment of fish preserves in Chautauqua lake.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 258
added to
L. 1911,
ch. 647.

Section 1. Part seven of article five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," such part having been added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, is hereby amended by adding at the end thereof a new section, to be section two hundred and fifty-eight, to read as follows:

§ 258. **Fish preserves in Chautauqua lake.** The commission may establish fish preserves in the waters of Chautauqua lake, within which no person shall take fish at any time. Every such preserve shall be staked out by the commission and appropriately marked to indicate that it has been so established. The commission shall also cause a description of each such preserve and the location thereof to be filed in the office of the county clerk of Chautauqua county.

§ 2. This act shall take effect immediately.

CHAPTER 511

AN ACT to amend the Dunkirk city charter, generally.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and seventy of chapter five hundred and thirty-eight of the laws of nineteen hundred and nine, entitled "An act to consolidate and revise the several acts relative to the city of Dunkirk," as last amended by chapter one hundred and twenty-four of the laws of nineteen hundred and eighteen,¹ is hereby amended to read as follows:

L. 1909, ch. 538, § 170, as amended by L. 1918, ch. 124, amended.

§ 170. **Estimates to be submitted.** On the first day of April in each year subsequent to the year nineteen hundred and sixteen, and on May first, in the year nineteen hundred and sixteen, the city treasurer shall submit to the common council a statement of the principal and interest of the bonded municipal debt falling due within the ensuing year. The city attorney shall submit a statement of all judgments, interest and costs which have been recovered against the city and remain unpaid. The board of police and fire commissioners and the board of health shall submit an estimate of the amount required for their respective departments for the ensuing year from said first day of April, and in the year nineteen hundred and sixteen, from the first day of May, and the police and fire commissioners shall include in such estimate the amount required for public charity and expense of the fire department; the mayor shall submit an estimate of the amount required for contingent and miscellaneous expenses of the city for all general purposes, including a statement of the amount necessary to be raised for officers' salaries and legal expenses as well as all proposed additions to city buildings, or new buildings; the mayor shall, in like manner, submit an estimate of the amounts which will be required for the purpose during the ensuing year from said April first, and in the year nineteen hundred and sixteen from said May first, of sweeping, cleaning and repairing improved streets, also the cost of the city's portion for the pavement of the intersections of unimproved streets and the maintenance of said unimproved streets; also the amounts which will be required for the repair and construction of the city's portion of sewers, new bridges and the repair and construction of crosswalks as provided in this act; the mayor shall also submit an estimate of the amount applicable to general purposes which will be received by the city during the ensuing year commencing April first, and in the year nineteen hundred and sixteen, commencing May first, from the municipal court judge, the mayor, the city clerk, city treasurer,

¹ Previously amended by L. 1916, cha. 294, 383.

excise moneys and all other sources, except taxes. The common council shall have power to reduce but not to increase any estimate made as aforesaid, except the mayor's estimate of the sum to be received by the city from all sources. The common council shall thereupon examine the various amounts estimated to be required for the respective departments and funds, and if satisfactory to said common council the amounts so estimated shall be approved, or if in the judgment of said common council, all or any of said amounts estimated should be reduced, they shall be so reduced by said common council and, after such reduction shall be approved, the common council shall thereupon deduct from the aggregation of said several amounts the amount included in the mayor's estimate of moneys that shall be received, as above, for general purposes. ² The said common council shall, at the first regular meeting of said common council thereafter held, add to the amount of said estimates, as finally approved by said common council, after deductions have been made as above, the sum of not more than sixty-five hundred dollars, to be paid to the Brooks Memorial Hospital each year, in four equal payments, the first payment to be made on August first, nineteen hundred and twenty-two, and said amount being in payment for the treatment, care and maintenance by said hospital, of the indigent poor of said city; and shall also add to said estimate the sum of not more than forty-five hundred dollars, to be paid to the trustees of the Dunkirk Free Library for library purposes, which payment shall be made on or before August first in each year. The amounts herein specified to be added, for payment to the Brooks Memorial Hospital and the Dunkirk Free Library, shall not be subject to the limitations contained in section one hundred and seventy-one of this act; and when such additions shall have been made the amounts shall be levied as the tax for the ensuing year. Provided, however, that before payments shall be made hereunder to said hospital or library, the said hospital shall file with the common council its detailed quarterly financial report, the first report to be filed August first, nineteen hundred and twenty-two, and the Dunkirk Free Library shall file annually its detailed financial report, and provided further that before said sums shall be paid to the Brooks Memorial Hospital the said Brooks Memorial Hospital shall designate two directors to be appointed by the mayor, subject to the approval of the common council of the city of Dunkirk, which directors shall serve for the term of one year.

§ 172, as
amended by
L. 1914,
ch. 283,
amended.

§ 2. Section one hundred and seventy-two of such charter, as amended by chapter three hundred and eighty-three of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 172. **Prohibiting liability and authorizing the city to borrow money for current expenses.** The common council is hereby prohibited from incurring any liability for current expenses ³ against

² Remainder of section materially amended.

³ Words "for current expenses" new.

said city except as provided in this act. The city of Dunkirk shall by resolution of the common council, approved by the mayor, have the power to borrow money on the credit of the city for the payment of current city expenses, in anticipation of taxes, but not in excess of the amount to be levied. 'The provisions of this section shall not prohibit the common council from issuing bonds for any improvement approved at a taxpayers' election.

§ 3. This act shall take effect immediately.

CHAPTER 512

AN ACT to enable the city of Geneva to acquire and improve certain lands adjoining the north and east shores of Seneca lake for the purpose of a public park, parkway, parking place or bathing beach, and to keep the shore of the lake open and unobstructed.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of public works of the city of Geneva is hereby authorized, subject to the condition herein contained, to acquire for and in the name of the city of Geneva all the right, title, interest, privileges and easements of any and all persons or corporations, except the right of the public to use any part thereof as a street or highway, in, to or upon the following described real property situate in the city of Geneva and the towns of Waterloo and Fayette, namely; beginning at a point on the shore of Seneca Lake twelve hundred feet distant westerly from the center line of Evans street extended to the shore of said lake and running thence in a northerly direction and parallel with the east face of a building owned by one Brady to the north line of the Lake Road, as established by a resolution of the board of trustees of the village of Geneva in April, eighteen hundred and forty-seven; thence in an easterly direction along the north line of said Lake Road as established in eighteen hundred and forty-seven to the center line of Pre-emption street; thence along the center line of Pre-emption street northerly about five hundred twenty-five feet to the south blue line of the Cayuga and Seneca canal; thence easterly and southeasterly along the south blue line of said Cayuga and Seneca canal to its intersection with the north line of the present outlet of Seneca lake (constituting part of the barge canal); thence in a southwesterly direction along the north line of the barge canal about seven hundred and twenty-five feet to Seneca lake; and thence northwesterly and westerly along Seneca lake to the place of beginning.

Acquisition
of certain
described
lands
authorized.

§ 2. The board of public works may acquire the right, title and interest of any person or corporation in, to or upon the

Lands how
acquired.

⁴ Following sentence new.

lands hereinbefore described by purchase and conveyance to the city, or, in its discretion, such board may proceed to acquire the same, or any part thereof, for the city by condemnation proceedings. Such condemnation proceedings shall be conducted in accordance with the provisions of the condemnation law except as is otherwise herein provided.

Petition in proceedings for acquisition.

§ 3. In any proceeding to acquire real property for the purposes mentioned in this act the petition shall set forth the fact that the public use for which the property is required is one of those mentioned in this act and that all preliminary steps herein prescribed have been duly taken, but it shall not be necessary to set forth any of the other facts required to be set forth by subdivisions one, three, five, six or seven of the condemnation law.

Issue of promissory notes authorized.

§ 4. Upon the conveyance to the city of any real property purchased for the improvement herein mentioned or upon the entry of a final order awarding compensation and costs, if any, to the owner of any real property so acquired by condemnation proceedings, the common council of the city of Geneva may borrow the amount necessary to pay the purchase price or award and for that purpose may issue the promissory notes of the city of Geneva and renew the same from time to time until the cost of the improvement shall have been provided for in the manner hereinafter provided.

Acquisition of certain lands to be further authorized.

§ 5. The board of public works shall not proceed to acquire any of the lands hereinbefore described which are situate east of the new pre-emption line unless the common council shall resolve that an extraordinary expenditure ought to be made for that purpose and unless it shall be decided by a special election of the taxpayers of the city of Geneva that the amount of such expenditure be raised by tax in the manner provided by section one hundred and forty-one of the charter of the city of Geneva.

Determination of total cost.

§ 6. Upon acquiring all of the real property hereinbefore described, or of any substantial part thereof, the board of public works shall determine the whole cost thereof, including the purchase price paid for all real property acquired for that purpose or for compensation and costs awarded, together with all expenses for surveys, maps, abstracts of title, advertising and interest, the expenses of condemnation proceedings, if any, and all other expenses incidental thereto and shall report the same to the common council.

Bond issue.

§ 7. The common council shall thereupon borrow the amount necessary to cover the cost of acquiring such real property, as so reported by the board of public works, and for that purpose may issue the bonds of the city of Geneva therefor, or for any part thereof, in such amounts and for such times as it shall deem advisable. Any bonds so issued shall not be sold for a sum less than the par value thereof and shall bear interest at a rate not exceeding six per centum per annum.

Use of property acquired.

§ 8. The real property so acquired, except so much thereof as shall constitute part of a street or highway, shall be forever used and maintained by the city of Geneva as a public park, parkway,

parking place or bathing beach and shall be open to the use of the public at all times under such reasonable regulations as the common council or board of public parks shall prescribe. So much of the real property acquired as shall not constitute part of a street or highway shall be under the control and management of the board of public parks of the city of Geneva. Control.

§ 9. It shall be unlawful from and after the taking effect of this act for any person or corporation to erect any wharf, storehouse or other structure upon or to fill in any land covered by the water of Seneca lake along or adjoining the north and east shores of said lake from a point twelve hundred feet westerly from Evans street, extended southerly, to the pier on the north side of the present outlet of Seneca lake (constituting part of the barge canal). Structures and filling in of land under water prohibited.

§ 10. This act shall take effect immediately.

CHAPTER 513

AN ACT to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," with respect to assessments for local improvements confirmed prior to the first day of September, nineteen hundred and twenty-two, and after the first day of January, nineteen hundred and eighteen.¹

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled "An act to incorporate the city of Mount Vernon," is hereby amended by inserting therein a new section, numbered section two hundred and five-a, to read as follows: § 205a. Added to L. 1892, ch. 182.

§ 205-a. Upon the application in writing of the owner of a parcel of real property affected by an unpaid assessment for local improvement, confirmed prior to the first day of September, nineteen hundred and twenty-two, and after the first day of January, nineteen hundred and eighteen, the amount of which exceeds five per centum of the valuation of such parcel made for the purpose of annual taxation in the calendar year next preceding such confirmation, the collecting official of the city of Mount Vernon shall divide the assessment upon such parcel into five parts as nearly equal as may be. As many of such parts as there be years elapsed since the confirmation of such assessment, with interest at the rate of eight per centum per annum on the amount of the assessment unpaid, shall be paid within ten days after such division as a condition of the extension of time of payment of the remainder as provided in this section. Upon payment of such parts and Provision for payment in installments.

¹ A new charter for Mount Vernon was enacted by L. 1922, ch. 490, ante.

interest, the balance of such assessments shall cease to be a lien upon such real property except as hereinafter provided; and the remaining parts shall be paid in annual installments as herein provided. Of such installments, the first with interest at the rate of eight per centum per annum thereon and on the installments thereafter to become due, from the date of payment of the parts of such assessment paid as hereinbefore provided, shall become due and payable and be a lien on the real property assessed, on the next ensuing anniversary of the date of confirmation of the assessment; and one, with interest at the rate of eight per centum per annum thereon and on the installments thereafter to become due, shall become due and payable and be a lien upon the real property assessed, annually thereafter. After the time specified for annual installment and interest to become due, the amount of the lien thereof shall bear interest at the rate of eight per centum per annum. The installments not due with interest at the rate of eight per centum per annum to the date of payment may be paid at any time. The provisions of law now in force with reference to the collection of taxes and assessments in the city of Mount Vernon shall apply to the several unpaid installments and the interest thereon in the same manner as if each installment and the interest thereon had been imposed as an assessment payable in one payment, at the time such installment became a lien. In the event of the acquisition by condemnation by the city for public purposes of any property upon which there are installments not due, such installment shall become due as of the date of confirmation of the report of the commissioners in the condemnation proceedings, and shall be set off against any award that may be made for the property acquired. Except as provided in this section, no such annual installment shall be a lien or deemed to be an incumbrance upon the title to the real property assessed until it becomes due as herein provided.

§ 2. This act shall take effect on the first day of September, nineteen hundred and twenty-two.

CHAPTER 514

AN ACT to authorize the council of the city of Newburgh to issue bonds for the purpose of paying certain indebtedness.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Bond
issue for
addition
to West
street
school.

Section 1. The council of the city of Newburgh is authorized to issue negotiable bonds of the city of Newburgh in the principal sum of ninety-four thousand dollars for the purpose of paying indebtedness of said city incurred in the building, furnishing and equipping of an addition to the West street school in said city.

Said bonds shall bear interest not exceeding five per centum per annum and shall be payable in twenty-five equal annual instalments of three thousand seven hundred and sixty dollars each, commencing one year from the date of said bonds. Said bonds shall be sold for not less than par, and shall be in such form and executed in such manner as the council of the city of Newburgh may by resolution provide, and shall contain a recital that they are issued pursuant to the city charter, which recital shall be conclusive evidence of their validity and of the regularity of their issue.

§ 2. There shall be raised annually by tax upon all the taxable property in the city of Newburgh a sum sufficient to pay the principal and interest on said bonds as the same shall become due. Tax for payment.

§ 3. This act shall not affect any action or proceeding now pending in any court. Pending actions.

§ 4. This act shall take effect immediately.

CHAPTER 515

AN ACT to amend the Niagara Falls charter, generally.¹

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and one of chapter five hundred and thirty of the laws of nineteen hundred and sixteen, entitled "An act to provide a charter for the city of Niagara Falls," is hereby amended to read as follows:

L. 1916, ch. 530, § 101 amended.

§ 101. The board of supervisors of the county of Niagara shall cause a corrected assessment roll of the city of Niagara Falls to be delivered to the treasurer on or before the fifteenth day of December in each year with their warrant in due form of law attached thereto, demanding the said treasurer to receive and collect from the several persons and corporations named in said assessment roll the several sums mentioned in the last column of said roll opposite their respective names, and to pay over the same in the manner directed in said warrant. Said warrant shall direct said treasurer to pay over all moneys therein specified, on or before the first day of February then next ensuing or such part thereof as has been received by him. Upon receiving such assessment roll and warrant, he shall give notice in the official paper of the city of the receipt by him of the same, and that all persons and corporations named therein are required to pay their taxes at his office on or before the first day of February next ensuing; also that for three weeks following the date of such notice, any person or corporation may pay his, her or its county

County assessment roll; delivery, warrant for collection.

Notice of payment of taxes.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

or state taxes without any percentage or fees thereon; that after the expiration of three such weeks, three per centum shall be added to and collected by said treasurer upon all such taxes received or collected by him from the expiration of such three weeks, to and until the first day of February next ensuing. If any such tax shall remain unpaid on the first day of February after the delivery of the assessment roll and warrant, he shall thereupon cause a written or printed notice to be given to every person resident within the city from whom such tax may be due, specifying the amount and percentage of the tax and requiring the same to be paid on or before the fifteenth day of February of the same year at his office. Such notice may be served personally, or by leaving the same at the residence or place of business of the person notified, or by depositing in the post office in the said city properly folded and directed, and the postage thereon prepaid, at least five days before the fifteenth day of February. For persons not residents in said city, a notice to them or to their registered agent, deposited in the post office in Niagara Falls, properly folded and directed to them at their reputed places of residence, with the postage thereupon prepaid, shall be sufficient. Such notice so served shall be deemed a full compliance with the statute requiring a collector of taxes to call at least once on a person taxed, or at his usual place of residence, and demand payment of the taxes charged him. But nothing herein contained shall be deemed to require such notice to be given unknown owners or non-residents of the city, whose residence or reputed place of residence is not known, and who have no registered agent residing in the city. On the fifteenth day of February, the fee additional to the tax then remaining unpaid shall be five per centum. In case any of the said taxes remain unpaid on the fifteenth day of March succeeding the delivery of the assessment roll and warrant to the treasurer, he shall deliver to the county treasurer an account of the taxes so remaining due, with a description of the property liable for the same as described in the assessment roll, and upon making oath before the county treasurer that the sums mentioned in the account remain unpaid and uncollected, and that he had not, on diligent inquiry, been able to discover any goods or chattels belonging to or in the possession of the person charged with or liable to pay such sums whereon he could levy the same, the said treasurer shall be discharged from all liability for the amount thereof, and he shall be credited therewith by the county treasurer.

Discharge
of city
treasurer
from lia-
bility for
unpaid
taxes.

§ 104
amended.

Tax
budget;
hearing;
adoption.

§ 2. Section one hundred and four of such charter is hereby amended to read as follows:

§ 104. Upon receipt of the estimate of the expenditures and revenues of the city for the ensuing year from the city manager the city council shall proceed to consider the same and shall fix a date for hearing any taxpayer who wishes to be heard in reference thereto, notice of which hearing shall be published once in the official paper of the city six days before such hearing, and after such hearing the city council may adopt such estimate or

may diminish, increase or reject any item therein contained except such items as relate to the city debt, and may adopt the estimate thus amended. The estimate as adopted shall be entered at large in the minutes of the council and published in its proceedings and the several sums in the final estimate so adopted shall be and become appropriated for the several departments, bureaus, and offices of the city for the purposes named in the estimate for the ensuing fiscal year. The city council shall also estimate the probable revenues other than the general city taxes of said city available for the purposes named in said estimate other than the amounts thereof which have been otherwise appropriated by law, or which may be otherwise appropriated under the provisions of this act and direct that the same may be credited to such of said several funds as it deems proper. The several balances in the estimate of expenses of the city after such deduction shall be made shall be known as the tax budget and the several amounts therein named shall be levied, assessed and laid by tax upon the real and personal property liable to taxation in the city, at such time and in such manner as is provided by law.

Upon the receipt of the estimate of the board of education the city council shall proceed to consider the same and if they approve it they shall sign it and immediately file the same with the city clerk; if within twenty days after it is received they do not approve it, reject it or diminish any item therein contained the same shall be considered as approved by the council. Such annual estimate so approved or adopted shall be filed with the city clerk, and the city council shall include the amounts so certified in the school tax and assessment roll and such amount shall be collected by the city treasurer and credited to the school fund.

Annual estimate of board of education.

§ 3. Section one hundred and eighty-five of such charter is hereby amended to read as follows:

§ 185 amended.

§ 185. He shall make two assessment rolls for each ward of said city, one of which shall be known as the "general tax and assessment roll" and the other shall be known as the "school tax and assessment roll." He shall value all real estate in said city on one common and general principle of valuation which shall be applied alike to all real estate assessed within said city.

Assessment rolls.

§ 4. Section one hundred and eighty-six of such charter is hereby amended to read as follows:

§ 186 amended.

§ 186. He shall make himself acquainted with the property assessed, and in all cases where unacquainted with it or where changes have occurred affecting its value, he shall personally view it before setting down its valuation upon the assessment rolls. He shall assess each lot or parcel of land separately giving the name of the owner, if known, or, if not known, the name of the occupant thereof, if occupied; the part of the lot assessed, the number thereof, the street, side of street, number of feet fronting on such street and such other brief description as will enable the land assessed to be definitely known and located. In cases where parcels of land otherwise separate are so built upon, occupied or used as to become premises not practically divisible,

Assessor to become acquainted with property.

Parcels to be assessed separately.

that fact shall be stated and a brief, proper description made according to the facts.

§ 189
amended.

§ 5. Section one hundred and eighty-nine of such charter is hereby amended to read as follows:

Assessment,
when to be
completed,
notice.

§ 189. The city assessor shall complete the assessment rolls on or before the first day of February of each year and leave the same in his office for public examination; he shall thereupon, forthwith give notice by posting hand bills, in prominent places in each ward in said city and publishing such notice in the official paper of said city for six successive business days, which notice shall state that the assessment rolls are completed and left in the office of the city assessor where they may be seen and examined by any person until the first day of March following said notice; and that the assessor will attend during said time at least two days in each week, specifying the days, at his office for the purpose of reviewing his assessments in the same manner as assessors of towns.

§ 190
amended.

§ 6. Section one hundred and ninety of such charter is hereby amended to read as follows:

Review and
correction
of assess-
ments.

§ 190. For the purpose of reviewing said assessment rolls and correcting said assessments, said city assessor shall have exclusive power to correct said rolls in respect to taxes imposed under the charter of said city or the ordinances thereof, in the same manner as the board of supervisors of a county may correct the town rolls of the county, and shall possess all powers in relation to such assessment rolls that the board of supervisors have in the case of town assessment rolls and town and county taxes. At the expiration of the time stated in said notice in the preceding section he shall cease to correct and review said rolls and he shall, within twenty days thereafter, have the school tax and assessment roll subscribed and verified by him and delivered to the city clerk to be by said city clerk filed; and prior to June first he shall have the general tax and assessment roll, including the assessment of special franchises made by the state board of tax commissioners completed, subscribed and verified by him and delivered to said city clerk to be by him filed; and a duplicate of the general tax and assessment roll of each ward shall be made and delivered by said assessor to the supervisor of the ward for which said assessment was made as shown by said roll, to be by him delivered to the board of supervisors of the county of Niagara. During the time the city assessor is so correcting and revising said assessment rolls he shall have the power to add to or insert therein any property liable to taxation and the assessment thereof which may have been omitted therefrom, upon giving at least two days' personal notice thereof to the owner or agent of such property.

Comple-
tion and
delivery
of assess-
ment rolls.

Addition of
property
omitted.

§ 192
amended.

§ 7. Section one hundred and ninety-two of such charter is hereby amended to read as follows:

Correction
of errone-
ous assess-
ment.

§ 192. Whenever there is a manifest error in copying any assessment rolls or levying or extending any tax or assessment, the city council may at any time, within six months after the

completion of the said assessment rolls and on ten days' written notice to the party interested correct, cancel, remit or add to the same but shall not alter any valuation made by the assessor.

§ 8. Section one hundred and ninety-six of such charter is hereby amended to read as follows: § 196 amended.

§ 196. In case any taxable land has been or shall be omitted from any of the said tax rolls, for any of the three preceding years, the city assessor may insert or cause to be inserted in the rolls of the current year the proportion of the taxes which it should have borne in such preceding year, or either thereof, stating such additional taxes separately and such addition shall be collected as part of the tax for the current year. Addition of tax for land omitted.

§ 9. Section one hundred and ninety-seven of such charter, as amended by chapter three hundred and seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: § 197, as amended by L. 1921, ch. 307, amended.

§ 197. Upon application of any person interested, made before sale as herein provided, the council may apportion any unpaid tax or assessment and determine the amount thereof chargeable against any separate parcel of the land originally assessed therefor, on such equitable principles as to it may seem applicable in the premises, and on payment to the city treasurer of the sum so determined, together with a pro rata proportion of all interest, fees or expenses which may have accrued thereon, said tax or assessment shall be extinguished as to such separate parcel; and the remainder thereof shall continue a lien on the remainder of the lands originally assessed therefor. This section shall apply to local assessments, general city taxes and school taxes. Apportionment of assessment before foreclosure.

§ 10. Section two hundred of such charter is hereby amended to read as follows: § 200 amended.

§ 200. The sum stated and assessed for school purposes upon each separate parcel of land or personal property, composing the estate of any person, corporation or association, shall be set opposite the description and valuation of such parcels respectively in the last column of the school tax and assessment roll in said city and shall be taken and regarded in all things as the school tax thereof for that year. The sum stated and assessed upon each separate parcel of land or personal property, composing the estate of any person, corporation or association, shall be set opposite the description and valuation of such parcels respectively in the last column of the general tax and assessment rolls in said city, except in cases where there are items of unpaid local taxes, or sidewalk repair bills, or other unpaid accounts or taxes, which by virtue of the provisions of this act are lawful charges and liens on and against any of said parcels of land proper to be placed on said tax roll; in such cases the said sum so stated and assessed thereon shall be set down in some convenient column other than the last column and such other unpaid items or amounts shall be set opposite to said parcel or valuation in some other convenient column or columns, with a brief note designating each thereof and the aggregate amount of such general and other Sums stated and assessed, how set out in assessment roll.

Lien upon
confirmation
of
school tax.

Notice of
collection.

taxes, charges and liens shall then be set down in the last column of said tax roll opposite said parcel of land and to be taken and regarded in all things as the general city tax thereon for that year; and said school tax and assessment when corrected and completed shall be filed on or before April first with the city clerk and by said clerk be reported to the council and upon being approved and confirmed by it shall be a lien upon the real estate described therein, and the assessor shall immediately make a true copy thereof certifying the same and forthwith deliver the same to the city treasurer, who shall, beginning May first, cause notices to be published for twenty successive days in the daily newspapers printed and published in said city and cause such other notices to be given as the council may direct, that the same are left with the treasurer for collection and that for thirty days after the publication of such notice, every person may pay his tax to said treasurer without any additional charges; for thirty days thereafter two per centum fees shall be collected; for the next succeeding thirty days five per centum fees shall be collected and that all such taxes remaining unpaid after ninety days in addition to said five per centum fees shall bear interest at the rate of six per centum per annum from the date of the confirmation of said tax roll. If any tax shall remain uncollected at the expiration of said ninety days, the treasurer shall give notice to the person or persons against whom said taxes stand charged. The notices shall all bear even date and shall require said person or persons to pay unpaid taxes to said treasurer at his office within the term of fifteen days thereafter with fees and interest thereon; said notices shall be served in the same manner and form as notices in the matter of county and state taxes as herein specified, and the provisions with reference to the notice and persons serving the same as specified in reference to county and state taxes, shall to all intents apply to the notices herein specified so far as the same may be applicable.

General
assessment;
lien and
collection.

The general assessment roll when corrected and completed shall be filed with the city clerk on or before October first and by said clerk be reported to the council and upon being approved and confirmed by it shall be a lien on the real estate described therein and the assessor shall immediately make a true copy thereof certifying the same and forthwith deliver it to the city treasurer who shall, beginning November first, proceed to collect the same and give the notices provided for in the case of the collection of the school taxes, and the same shall be subject to the same fees and penalties as provided in the case of school taxes.

§ 201
repealed.

§ 11. Section two hundred and one of such charter is hereby repealed.

§ 202
amended.

§ 12. Section two hundred and two of such charter is hereby amended to read as follows:

Review of
unpaid
taxes.

§ 202. Immediately after the expiration of the fifteen day period mentioned in the fifteen day notices provided to be given in section two hundred of the city charter, it shall be the duty of the assessor, with the advice and assistance of the corporation

counsel, to thoroughly review and consider the unpaid taxes, and in case they shall ascertain and determine by an instrument in writing, to be signed by them and filed with the city clerk, that any of said unpaid taxes were illegally assessed for any reason whatever, it shall be their duty to specify the proper person and the real and personal property which was meant and intended to be assessed and taxed therefor respectively, and the same, with interest thereon at the rate of six per centum per annum from the time the same could have been paid without fees if correctly assessed, shall be placed upon the said tax rolls of said city for the next following year against the proper person and property, and shall thereupon be in all things taken and regarded as a tax for such following year in addition to any other taxes for said year upon or against the same person or estate, and be collected and proceeded with in all respects in the same manner as the other taxes upon said rolls for said year.

Correction
of illegal
assess-
ments.

§ 13. Section two hundred and three of such charter, as amended by chapter three hundred and seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 203, as
amended by
L. 1921,
ch. 307,
amended.

§ 203. All taxes and assessments hereafter levied in said city shall be a lien upon the lands on which they are assessed, for ten years from the first publication of the notice of such tax or assessment by the treasurer, and said taxes shall have priority in the order of time in which they become liens. All taxes and assessments which are liens at the time this act takes effect shall continue to be liens as provided in this section and the collection thereof may be enforced as herein provided. The collection of every assessment and of every tax upon real estate, with the interest and additions, may be enforced by a sale of the real estate by the city treasurer as herein provided. If the proceedings to enforce said liens shall have been stayed by a court or judge, the period of such stay shall not be taken as a part of said ten years. Such liens shall be superior to any mortgage, judgment or other lien of any nature affecting said premises, except state and county taxes and liens in favor of the United States.

Lien of
taxes.

§ 14. Section two hundred and thirty-two of such charter is hereby amended to read as follows:

§ 232
amended.

§ 232. When a tax imposed pursuant to the provisions of this act against a person, firm, estate or corporation, resident in the county of Niagara, remains unpaid for a period of six months, the city treasurer may apply on affidavit to the county judge of said county and obtain an order requiring such person, firm, estate or corporation to appear before such county judge, or before a referee named in such order, and answer concerning his, their or its property. The same proceedings may in all respects be had as in cases supplementary to execution, and the same costs and disbursements may be allowed against the person, firm, estate or corporation examined concerning his, their, or its property, but none shall be allowed in his, their or its favor. The tax,

Supple-
mentary
proceed-
ings.

if collected, shall be paid over to the treasurer and the costs collected shall belong to the party instituting the proceedings and shall be applied by him to the payment of the expenses of the proceeding.

In effect
Jan. 1,
1923.

§ 15. This act shall take effect January first, nineteen hundred and twenty-three.

CHAPTER 516

AN ACT to amend the New York city municipal court code, in relation to jury fees.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1916,
ch. 279,
§ 118, as
amended by
L. 1919,
ch. 327,
amended.

Section 1. Section one hundred and eighteen of chapter two hundred and seventy-nine of the laws of nineteen hundred and fifteen, entitled "An act in relation to the municipal court of the city of New York, and repealing certain statutes affecting such court, its justices and officers," as last amended by chapter three hundred and twenty-seven of the laws of nineteen hundred and nineteen,¹ is hereby amended so as to read as follows:

§ 118. Jury trial; how obtained; jury fee.

1. Either party at the time of pleading or within three days after joinder of issue may demand a trial by jury. The demand may be made in writing and filed with the clerk, or orally and endorsed upon the summons. In a special proceeding the demand may be made in open court on the return of the precept. The party demanding a trial by jury shall, or upon his default the other party may,² at the beginning of the trial,³ pay to the clerk the sum of three dollars, which shall be paid by the clerk into the city treasury.

2. Unless a demand is made and the jury fee paid as above provided, a jury trial is waived and the court must hear the evidence and decide all questions of fact and law; provided, however, that the court may in its discretion, at any time before or during the trial, direct that a trial be had by jury, and thereupon a trial by jury shall be had in the same manner as if either party had demanded it, and the jury fee shall be paid by the plaintiff.⁴

§ 120
amended.

§ 2. Section one hundred and twenty of such chapter is hereby amended to read as follows:

¹ Previously amended by L. 1916, ch. 123.

² Words "or upon his default the other party may" new.

³ Words "at the beginning of the trial" substituted for word "forthwith."

⁴ Subd. 3 omitted which read: "3. If an action is settled or discontinued before trial, all jury and jurors' fees paid by any party as provided in this act shall be returned forthwith to such party by the clerk of the court to whom such jury fee was paid."

§ 120. Number of jurymen; fee for jury of twelve.

1. Except as hereinafter provided, a jury shall be composed of six men.

2. In a special proceeding or in an action where the claim for damages or of the value of the chattels exceeds two hundred and fifty dollars, either party may demand a trial by a jury of twelve. In such a case the jury fee to be paid⁵ shall be six dollars.

3.⁶ In a case provided for in the subdivision next preceding, if one of the parties has demanded a jury of six, the other party may at least two days before trial file with the clerk a demand in writing for a jury of twelve, and, at the beginning of the trial, must pay to the clerk a fee of three dollars, which shall be applied as provided in section one hundred and eighteen.

§ 3. Section one hundred and seventy-three of such chapter, as last amended by chapter five hundred and ten of the laws of nineteen hundred and twenty, is hereby amended so as to read as follows: § 173, as amended by L. 1920, ch. 510, amended.

§ 173. Fees payable to the clerk.

There shall be paid to the clerk the following sums as court fees in an action, and there shall be no others:

1. Upon filing summons with proof of service thereof, one dollar.

2. Before or at the beginning of the trial, as a trial fee, one dollar.

3. On filing notice of appeal, two dollars.

4. For issuing an order of arrest, a warrant of attachment, a requisition to replevy, or a warrant of seizure, one dollar.

5. For entry of judgment upon confession, one dollar.

6. On⁷ a trial by a jury of six, three dollars; by a jury of twelve, six dollars.

7. For certifying a copy of a paper on file in the clerk's office, ten cents for each folio of one hundred words, except a return on appeal.

8. For issuing a precept in a summary proceeding to recover possession of real property, one dollar.

9. Upon filing a precept in a summary proceeding to recover possession of real property, one dollar.

All fees shall be prepaid before the service shall be performed.

§ 4. If in any action prior to the taking effect of this act, a jury fee has been paid by a litigant and deposited by the clerk of the court in the city treasury and the action is settled or discontinued before trial, the jury fee so paid and deposited may be refunded by the comptroller of the city of New York upon proof of the necessary facts in the form prescribed by the comptroller. Refund of jury fees paid.

§ 5. This act shall take effect immediately.

⁵ Word "paid" substituted for word "deposited."

⁶ Subd. 3 materially amended.

⁷ Word "demanding" omitted.

CHAPTER 517

AN ACT to amend the Greater New York charter, in relation to use of the proceeds of bond issues.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901,
ch. 499,
§ 189, subd.
9; as
amended by
L. 1921,
ch. 618,
amended.

Section 1. Subdivision nine of section one hundred and sixty-nine of the greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and last amended by chapter six hundred and eighteen of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

For re-
paving.

9. For the repaving of streets to an amount not exceeding three million dollars, in any one calendar year.

Issue of
corporate
stocks
other than
for pur-
poses
enumerated.

Corporate stocks to be issued for purposes other than those hereinbefore in this section specifically enumerated, or for such purposes in excess of the amounts therein specified, shall be authorized by the board of aldermen, with the approval of the board of estimate and apportionment, as provided by section forty-seven of this act; provided, however, that whenever by existing provisions of law the commissioners of the sinking fund may be specifically authorized to provide for the issue of stocks or bonds, said authorization of the comptroller shall be made by said commissioners instead of said board of estimate and apportionment; and that nothing in this section contained shall affect the provisions of sections one hundred and eighty and two hundred and thirteen of this act; provided, however, that nothing in this section shall prevent the issue of general fund bonds in the manner provided by section two hundred and twenty-two of this act. The city of New York shall not, except as hereinafter provided, expend any part of proceeds of sales of corporate stock or serial bonds for the purpose of paying operating expenses of said city as hereinafter defined. The term "operating expenses," as used in this section, includes expenses for maintenance, repairs and current operation or administration of the property and government of the city; and excludes expenditures by the city for betterments, improvements and acquisitions of property of a permanent nature; but expenditures made or incurred by the board of water supply, the aqueduct board, and, prior to January first, nineteen hundred and ten, by the department of docks, shall not be considered operating expenses within the meaning of this act.

¹ Previously amended by L. 1902, ch. 563; L. 1903, ch. 103; L. 1905, ch. 639; L. 1906, ch. 209; L. 1907, ch. 439; L. 1908, ch. 147; L. 1909, ch. 377; L. 1910, ch. 683; L. 1911, ch. 456; L. 1915, ch. 309; L. 1916, ch. 615; L. 1920, chs. 589, 960.

The city of New York shall not, except as hereinafter provided, expend any part of the proceeds of sales of corporate stock or serial bonds for other than revenue-producing improvements, except for the erection of school buildings and the acquisition of sites therefor and the acquisition of houses for school purposes, and the furnishing and equipment thereof when first erected, and except for the erection and equipment of the buildings of the American Museum of Natural History and of the Metropolitan Museum of Art² which by charter and contract with the city is an adjunct of the educational system of the city, and except the sum of six million dollars for the purpose of erecting a municipal building in the borough of Brooklyn,³ and except for the erection and equipment of the Central library in the borough of Brooklyn, and except for the completion of the erection and equipment of sections designated F and G on architect's plans for the Museum of the Brooklyn Institute of Arts and Sciences. The term "revenue-producing" as used in this section shall apply to that class of improvements, including among others those for docks, water and rapid transit purposes, the expenditure for which shall, at the time it is authorized, be determined by the board of estimate and apportionment to have a substantial present or prospective earning power. Nothing herein contained, however, shall limit the power of the board of estimate and apportionment to authorize the use of the proceeds of the sale of corporate stock or assessment bonds to replenish the street improvement fund or the fund for the street and park openings or for the purpose of meeting the expenses of improvements for which said board has authorized the issue of corporate stock prior to January first, nineteen hundred and sixteen, or meeting the expenses of improvements heretofore authorized to be paid from the proceeds of the sale of corporate stock or serial bonds by special act, nor to limit the power of the board of estimate and apportionment to authorize the use of the proceeds of the sale of corporate stock for other than revenue-producing improvements as follows: That during the year nineteen hundred and sixteen, one-half of the cost of other than revenue-producing improvements shall be paid by the issue of corporate stock maturing serially from one to fifteen years, and the remaining half of such cost shall be included in annual tax levies in the manner provided in section one hundred and eighty-nine of this act; and that during the year nineteen hundred and seventeen, one-quarter of the cost of such improvements shall be paid by the issue of corporate stock maturing serially from one to fifteen years, and the remaining three-quarters shall be included in annual tax levies as provided in section one hundred and eighty-nine of this act.

When in the opinion of the comptroller it shall appear desirable to have the whole or any part of an issue of corporate stock or serial bonds made payable in the currency of a country other than the United States, such corporate stock or serial bonds so to be

Proceeds
not to be
expended
for other
than
revenue-
producing
improve-
ments;
exceptions.

Payable in
currency of
foreign
country.

² Words "and of the Metropolitan Museum of Art" new.

³ Remainder of sentence new.

sold shall be made payable in such currency, with certificates in such amounts, and sold in such manner as may be duly authorized by the commissioners of the sinking fund; provided, however, that in case such corporate stock or serial bonds payable in a foreign currency or currencies is not sold in the manner prescribed for the sale of corporate stock or serial bonds under the provisions of section one hundred and eighty-two of this chapter, the comptroller shall invite sealed, competitive tenders for the purchase of such corporate stock or serial bonds in such manner as the commissioners of the sinking fund shall prescribe; and he shall make award or awards to the highest bidder or bidders for such corporate stock or serial bonds with the full power to reject all bids. The proceeds of sales of such corporate stock or serial bonds shall be recorded in the books of the finance department in the terms of the currency of the United States as well as in the terms of such foreign currency in which such corporate stock or serial bonds shall have been issued.

§ 2. This act shall take effect immediately.

CHAPTER 518

AN ACT amending the public lands law by adding thereto a new section to be known as section fifty-seven-a, authorizing the abandonment and sale of canal lands to counties of the state when required for the construction or reconstruction of any state or county highway.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 57a
added to
L. 1908,
ch. 50.

Section 1. Chapter fifty of the laws of nineteen hundred and nine, as amended by chapter two hundred and ninety-nine of the laws of nineteen hundred and sixteen, is hereby amended by adding thereto a new section numbered section fifty-seven-a, to read as follows:

Sale of
abandoned
canal lands
to counties
for highway
purposes,
authorized.

§ 57-a. Whenever the state commission of highways shall certify to the canal board that the acquisition by any county of the state of a certain tract or parcel of canal land is necessary as a right of way for the construction or reconstruction of any state or county highway, the canal board, on receipt of a report from the state engineer and surveyor and superintendent of public works in accordance with the provisions of section fifty-two of this act, to the effect that such lands are no longer necessary or useful as parts of the barge canal system, as an aid to navigation thereon, or for public terminal purposes, and stating the reasons why such lands and structures are no longer necessary or useful for such purpose, is authorized, in its discretion, to adopt a resolution abandoning said lands, or any part or portion thereof, for canal purposes. Whenever the state commission of highways shall certify to the commissioners of the land office that the acquisition by any county of the state of a certain tract or parcel of land

heretofore or hereafter abandoned for canal purposes pursuant to any of the provisions of this article is necessary as a right-of-way for the construction or reconstruction of any state or county highway, the commissioners of the land office may sell and convey the right, title and interest of the state of New York in and to such lands to the county upon which it is incumbent to acquire title thereto for the construction or reconstruction of the state or county highway referred to in the certificate of the state commission of highways, for a sum not less than the value thereof as fixed and determined by the commissioners of the land office. The provisions of sections fifty-three to fifty-seven inclusive of the public lands law shall not apply to the abandonment or sale of canal lands under the provisions of this section.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Inconsistent
acts.

§ 3. This act shall take effect immediately.

CHAPTER 519

AN ACT to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," generally.¹

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision fourteen of section three of chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," as last amended by chapter one hundred and twenty-two of the laws of nineteen hundred and fourteen,² is hereby amended to read as follows: L. 1907,
ch. 755,
§ 3,
subd. 14, as
amended by
L. 1914,
ch. 123,
amended.

14. Fourteenth ward. All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center line of Averill avenue extended westerly would intersect the said center of the Genesee river; thence easterly along said extended center and along the said center line of Averill avenue to the intersection with the center line of South avenue; thence southerly along said center line of South avenue to the intersection with the center line of Caroline street; thence easterly along said center line of Caroline street to the intersection with the center line of South Goodman street; thence northerly along said center line of South Goodman street to the intersection with the center of the Erie canal; thence easterly along said center of the Erie canal to the intersection with the center line of the Culver road; thence southerly along said center line of the Culver road and said center line produced southerly to the

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1908, ch. 368.

sold shall be made payable in such currency, with certificates in such amounts, and sold in such manner as may be duly authorized by the commissioners of the sinking fund; provided, however, that in case such corporate stock or serial bonds payable in a foreign currency or currencies is not sold in the manner prescribed for the sale of corporate stock or serial bonds under the provisions of section one hundred and eighty-two of this chapter, the comptroller shall invite sealed, competitive tenders for the purchase of such corporate stock or serial bonds in such manner as the commissioners of the sinking fund shall prescribe; and he shall make award or awards to the highest bidder or bidders for such corporate stock or serial bonds with the full power to reject all bids. The proceeds of sales of such corporate stock or serial bonds shall be recorded in the books of the finance department in the terms of the currency of the United States as well as in the terms of such foreign currency in which such corporate stock or serial bonds shall have been issued.

§ 2. This act shall take effect immediately.

CHAPTER 518

AN ACT amending the public lands law by adding thereto a new section to be known as section fifty-seven-a, authorizing the abandonment and sale of canal lands to counties of the state when required for the construction or reconstruction of any state or county highway.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 57a
added to
L. 1908,
ch. 50.

Section 1. Chapter fifty of the laws of nineteen hundred and nine, as amended by chapter two hundred and ninety-nine of the laws of nineteen hundred and sixteen, is hereby amended by adding thereto a new section numbered section fifty-seven-a, to read as follows:

Sale of
abandoned
canal lands
to counties
for highway
purposes,
authorized.

§ 57-a. Whenever the state commission of highways shall certify to the canal board that the acquisition by any county of the state of a certain tract or parcel of canal land is necessary as a right of way for the construction or reconstruction of any state or county highway, the canal board, on receipt of a report from the state engineer and surveyor and superintendent of public works in accordance with the provisions of section fifty-two of this act, to the effect that such lands are no longer necessary or useful as parts of the barge canal system, as an aid to navigation thereon, or for public terminal purposes, and stating the reasons why such lands and structures are no longer necessary or useful for such purpose, is authorized, in its discretion, to adopt a resolution abandoning said lands, or any part or portion thereof, for canal purposes. Whenever the state commission of highways shall certify to the commissioners of the land office that the acquisition by any county of the state of a certain tract or parcel of land

heretofore or hereafter abandoned for canal purposes pursuant to any of the provisions of this article is necessary as a right-of-way for the construction or reconstruction of any state or county highway, the commissioners of the land office may sell and convey the right, title and interest of the state of New York in and to such lands to the county upon which it is incumbent to acquire title thereto for the construction or reconstruction of the state or county highway referred to in the certificate of the state commission of highways, for a sum not less than the value thereof as fixed and determined by the commissioners of the land office. The provisions of sections fifty-three to fifty-seven inclusive of the public lands law shall not apply to the abandonment or sale of canal lands under the provisions of this section.

§ 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Inconsistent
acts.

§ 3. This act shall take effect immediately.

CHAPTER 519

AN ACT to amend chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," generally.¹

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision fourteen of section three of chapter seven hundred and fifty-five of the laws of nineteen hundred and seven, entitled "An act constituting the charter of the city of Rochester," as last amended by chapter one hundred and twenty-two of the laws of nineteen hundred and fourteen,² is hereby amended to read as follows:

L. 1907,
ch. 755,
§ 3,
subd. 14, as
amended by
L. 1914,
ch. 122,
amended.

14. Fourteenth ward. All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center line of Averill avenue extended westerly would intersect the said center of the Genesee river; thence easterly along said extended center and along the said center line of Averill avenue to the intersection with the center line of South avenue; thence southerly along said center line of South avenue to the intersection with the center line of Caroline street; thence easterly along said center line of Caroline street to the intersection with the center line of South Goodman street; thence northerly along said center line of South Goodman street to the intersection with the center of the Erie canal; thence easterly along said center of the Erie canal to the intersection with the center line of the Culver road; thence southerly along said center line of the Culver road and said center line produced southerly to the

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1908, ch. 368.

north line of lot number thirty-seven of the town of Brighton; thence westerly along the north line of lots numbers thirty-seven and forty-five to a point two hundred feet easterly measured at right angles from the easterly line of Field street, so called; thence southerly along a line parallel to and two hundred feet easterly measured at right angles from the said easterly line of said Field street and along said line produced to a point two hundred feet southwesterly measured at right angles from the southwesterly line of Clinton avenue south; thence northwesterly along a line parallel to and two hundred feet southwesterly measured at right angles from the southwesterly line of said Clinton avenue south to a point in the division line between lands of Saint Boniface Church cemetery and lands of Frank C. Barton; thence southerly on said division line,— it being the easterly line of lands described by the first description in deed of conveyance from Eben J. Barton to Frank C. Barton, which is recorded in Monroe county clerk's office in liber eight hundred and nine of deeds at page three hundred and forty-seven,— to the southeast corner of said Barton's lands; thence westerly in the south line of said Barton's land to the northeast corner of land conveyed by Edward Daggs and wife to Ellwanger and Barry, by deed dated August twenty-sixth, eighteen hundred and sixty-eight, and recorded in Monroe county clerk's office in liber two hundred and twenty-two of deeds at page three hundred and twenty; thence southerly on the easterly line of said Ellwanger and Barry lands and said line produced to a point one hundred and fifty feet south from the south line of Highland avenue measured at right angles to said south line; thence westerly on a line parallel to and one hundred and fifty feet distant from the south line of Highland avenue to a point in the present line of the city, said line being described as being two hundred and ninety feet distant and parallel to the easterly line of lot number sixty-one of the town of Brighton; thence southerly on a line parallel with the east line of said lot number sixty-one to the northerly line of a highway known as Elmwood avenue; thence westerly along the northerly line of said Elmwood avenue about three hundred feet to the division line between said town lots numbers fifty-three and sixty-one; thence southerly along said division line between town lots numbers fifty-three and sixty-one and along the division line between town lots numbers fifty-four and sixty-two and fifty-five and sixty-three of said town of Brighton to a point one hundred and fifty feet south, measured at right angles, from the south line of Westfall road; thence westerly parallel to and one hundred and fifty feet south, measured at right angles, from the south line of Westfall road to a point one hundred and fifty feet east, measured at right angles, from the east line of the West Henrietta road; thence southerly parallel to and one hundred and fifty feet east, measured at right angles, from the east line of the West Henrietta road to the north water line of the Barge canal; thence west along the north water line of the Barge canal to the westerly line of the lands owned by the Erie railroad company; thence southerly along the said westerly

line of said lands owned by said railroad company to a point in the southerly line of the Westfall road, so called; thence westerly along the said southerly line of the said Westfall road to a point in the easterly line of the lands conveyed by Dora M. Baker to Frances A. Baker, by quit-claim deed recorded in liber six hundred and ninety-eight of deeds at page three hundred and thirty-one, Monroe county clerk's office; thence southerly along the said easterly line of said lands of Frances A. Baker to an angle to the left; thence easterly along the northerly line of said lands of Frances A. Baker to an angle to the right; thence southerly along the easterly line of said lands of Frances A. Baker to a point in the northerly line of the Crittenden road, so called; thence westerly along said northerly line of said Crittenden road to a point in the westerly line of the said lands of Frances A. Baker; thence northerly along the said westerly line of said lands of Frances A. Baker to an angle to the left; thence northwesterly along the southerly line of the said lands of Frances A. Baker and said line extended, to a point in the westerly shore of the Genesee river; thence northeasterly along the said westerly shore of the Genesee river, to a point where the northerly line of a road lying between the lands of E. Chapin and Mathias Kondolf, on the west side of the Genesee river, extended easterly would intersect the center of the said Genesee river; thence easterly along said extended northerly line of said road to the intersection with the center of the Genesee river; thence northerly along said center of the Genesee river to the place of beginning, constitutes the fourteenth ward.

§ 2. Subdivision seventeen of section three of such chapter, as § 2, last amended by chapter four hundred and seventy-nine of the laws of nineteen hundred and seventeen,³ is hereby amended to read as follows:

subd. 17,
as amended
by L. 1917,
ch. 479,
amended.

17. Seventeenth ward. All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center line of Avenue E extended westerly would intersect the said center of the Genesee river; thence northerly along the said center of the Genesee river to a point where the shore line of Lake Ontario at low water mark extended westerly intersects the center line of said river; thence easterly along said extended shore line and along the shore of Lake Ontario at low water mark to a point one hundred and fifty feet distant easterly from the west face of the east pier in Genesee river; thence southerly along a line one hundred and fifty feet distant at all points easterly from the east line of the Genesee river at low water mark, to a point in the south line of land now or heretofore owned by Upton and Robinson, as shown on a right of way map of the Rome, Watertown and Ogdensburg railroad, now on file in the Monroe county clerk's office; thence easterly along said south line of Upton and Robinson's land to a point in the west line of the right of way of said Rome, Watertown and Ogdensburg railroad; thence southerly along said west line of said right of way to its intersection with the north line of lot number fourteen in the

³ Previously amended by L. 1913, ch. 659; L. 1915, ch. 359.

town of Irondequoit; thence easterly along said north line of said lot number fourteen to the east line of the right of way of the Rome, Watertown and Ogdensburg railroad; thence southerly along the east line of the right of way of the Rome, Watertown and Ogdensburg railroad to the north line of the Sibley property in the east line of the east side boulevard; thence easterly along the north line of the Sibley property to the northeast corner of said Sibley property; thence southerly along the east line of the Sibley property to a point one hundred and fifty feet north of the Ridge road; thence easterly on a line parallel to and one hundred and fifty feet distant from the north line of the Ridge road to the east line of the one thousand acre tract, or village of Carthage, so-called; thence southerly on the east line of the one thousand acre tract to a point three hundred feet south, measured at right angles, from the south line of the Ridge road; thence east parallel to and three hundred feet south, measured at right angles, from the south line of the Ridge road to a point in the center line of Hudson avenue; thence southerly along said center of Hudson avenue to the intersection with the center of Clifford avenue; thence westerly along said center of Clifford avenue to the intersection with the center of Conkey avenue; thence southerly along said center of Conkey avenue to the intersection with the center of Evergreen street; thence westerly along said center of Evergreen street to the intersection with the center of Durgin street; thence northerly along said center of Durgin street to the intersection with the center of Clifford avenue; thence easterly along said center of Clifford avenue to the intersection with the center of Harris street; thence northerly along said center of Harris street to the intersection with the center of Neilson street; thence easterly along the center of Neilson street to the center of Gladys street; thence northerly along the center of Gladys street to the intersection with the center of Avenue A; thence westerly along the center of Avenue A to its intersection with the center of Harris street; thence northerly along said center of Harris street to the intersection with the center of Avenue D; thence westerly along said center of Avenue D to the intersection with the center of an alley, said center of the alley being about one hundred and ninety-two feet easterly from the east line of Saint Paul street; thence northerly along the said center of said alley to the intersection with the center of Avenue E; thence westerly along said center of Avenue E and said center extended to the place of beginning, constitutes the seventeenth ward.

§ 3,
subd. 20
amended.

§ 3. Subdivision twenty of section three of such chapter is hereby amended to read as follows:

20. Twentieth ward. All that part of the said city included within a line beginning at a point in the center of West avenue where the center of Genesee street extended northerly would intersect the said center of West avenue; thence westerly along said center of West avenue to the intersection with the center of Chili avenue; thence southwesterly along said center of Chili avenue to a point where a line twelve feet westerly of the easterly

line of Lincoln avenue extended southerly would intersect the same; thence northerly along said extended line and a line parallel to and twelve feet westerly measured at right angles from the said easterly line of Lincoln avenue, to a point where a line twelve feet northerly of the southerly line of a highway called the Buffalo road, extended westerly would intersect the same; thence easterly along said extended line and a line parallel with and twelve feet northerly measured at right angles from the southerly line of said Buffalo road, to the east line of lot number one hundred and sixty-eight of the town of Gates; thence northerly along the east line of lots one hundred and sixty-eight, seventy-six and seventy-five of the said town of Gates, to the intersection with the center of Jay street; thence easterly along the said center of Jay street to the intersection with the center of Saxton street; thence southerly along said center of Saxton street and said center extended southerly to the intersection with the center of Brown street; thence southwesterly along said center of Brown street to the place of beginning, constitutes the twentieth ward.

§ 4. Subdivision twenty-two of section three of such chapter, § 3, as amended by chapter six hundred and fifty-nine of the laws of subd. 22, as amended by L. 1912, ch. 659, is hereby amended to read as amended.

22. Twenty-second ward. All that part of the said city included within a line beginning at a point in the center of Clifford avenue at its intersection with the center of Hudson avenue; thence northerly along said center of Hudson avenue to a point three hundred feet south, measured at right angles, from the south line of the Ridge road; thence easterly parallel to and three hundred feet south, measured at right angles, from said south line of the Ridge road to a point one hundred and fifty feet east, measured at right angles, from the east line of Carter street; thence south parallel to and one hundred and fifty feet east, measured at right angles, from the east line of Carter street to the south line of lands conveyed to Ely W. Buell and recorded in Monroe county clerk's office in liber nine hundred and thirty-three of deeds at page one; thence easterly along said south line of lands of Ely W. Buell to the westerly line of Portland avenue; thence across Portland avenue to the northwest corner of lot six of the Portland park tract; thence easterly along the north line of lot six of the Portland park tract one hundred and fifty feet to the northeast corner thereof; thence south on a line parallel to and one hundred and fifty feet east, measured at right angles, from the east line of Portland avenue to a point one hundred and fifty feet north, measured at right angles, from the north line of Norton street; thence easterly on a line parallel to and one hundred and fifty feet distant from the north line of Norton street to the west line of the Woodman road, so called, said Woodman road being upon the division line between lots numbers forty-one and forty-three of the town of Irondequoit; thence northerly and northeasterly along a line parallel to said center line of said Woodman road

and thirty-three feet westerly therefrom to a point thirty-three feet southerly from the center line of a road running westerly to the junction with the Hoffman road, so called, and the Wisner road, so called; thence northwesterly along a line parallel to said center line of said road and thirty-three feet southerly therefrom to a point thirty-three feet westerly from the center line of said Wisner road; thence northeasterly and northwesterly along a line parallel to said center line of the Wisner road and thirty-three feet westerly therefrom to a point in the south line of lot number eight of the lake tract in the town of Irondequoit, said line being also the southerly line of the lands Joseph Buckner and wife conveyed to Henry S. Durand by an agreement recorded in Monroe county clerk's office in liber seven hundred and forty-five of deeds at page seven; thence westerly along said south line of said lot number eight and being along the southerly line of said land of Henry S. Durand by said agreement, to a point in the southwest corner of said Henry S. Durand's land; thence northeasterly along the westerly line of said Henry S. Durand's land to a point in the southerly line of lot number seven of the said lake tract, being also in the southerly line of four acres of land conveyed to Henry S. Durand by deed from Adam Wiesner and wife recorded in Monroe county clerk's office in liber six hundred and six of deeds at page four hundred and forty-nine; thence westerly along the said southerly line of said Henry S. Durand's land to a point in the southwest corner thereof; thence northerly along the westerly line of said Henry S. Durand's land to a point in the southerly line of fourteen and fifty-five hundredths acres of land conveyed to said Henry S. Durand by deed from J. P. Lacour and others and recorded in Monroe county clerk's office in liber six hundred and ninety-four of deeds at page twenty-eight; thence westerly along the said southerly line of Henry S. Durand's land to a point in the southwest corner thereof, said point being also in the westerly line of said lot number seven of the lake tract; thence northerly along said westerly line of said lot number seven, to a point in the southeasterly corner of lot number eleven of the town of Irondequoit, said point being also the southeasterly corner of land formerly owned by Thomas Delapp and conveyed to George Eastman by deed from Nelson P. Sanford recorded in Monroe county clerk's office in liber seven hundred and fifty-four of deeds at page two hundred and fifty-eight; thence westerly along the southerly line of land deeded to said George Eastman, being also the division line between lots numbers eleven and twenty-one of the town of Irondequoit, to a point at a stake in the northwest corner of said lot number twenty-one; thence along said George Eastman's land south fifty-one degrees west, six chains to a stake; thence along said Eastman's land north nine degrees forty-five minutes west, to a point in the north line of lot number twenty, town of Irondequoit, distant five chains and seventy-eight links westerly from the northeast corner of said lot number twenty; thence westerly along the southerly line of said George Eastman's land to a point in the southwest corner of said land,

said point being in the southwest corner of said lot number eleven; thence northerly along the westerly line of said George Eastman's land and the westerly line of land conveyed to Henry S. Durand by Dominick Barrett by deed recorded in Monroe county clerk's office in liber six hundred and eight of deeds at page four hundred and eighty-eight, to a point in the southeasterly line of a highway running northerly; thence westerly along the south line of the Harris property and line produced, purchased by the city of Rochester September eleventh, nineteen hundred and eleven, by deed recorded in Monroe county clerk's office in liber eight hundred and fifty-eight of deeds at page three hundred and fifty-six, to a point in the division line between the lands of Harris and Schneeberger; thence still westerly along the south line of the Schneeberger property, which property was purchased by the city of Rochester by deed dated December thirtieth, nineteen hundred and twelve, and recorded in Monroe county clerk's office in liber nine hundred and two of deeds at page one hundred and eighty-six, to a point; thence continuing westerly along the southerly line of lands conveyed to the city of Rochester by Frederick J. Hafner and wife and recorded in Monroe county clerk's office in liber one thousand and nine of deeds at page one hundred and eighty-nine to the southwest corner of lands so conveyed; thence northerly along the lands so conveyed by Hafner and along the westerly line of the Bluntach property, which said Bluntach property was purchased by the city of Rochester under deed dated December nineteenth, nineteen hundred and eleven, and recorded in Monroe county clerk's office in liber eight hundred and sixty-nine of deeds at page two hundred and ten, to the shore line of Lake Ontario; thence easterly along high water mark on the southerly shore of Lake Ontario to a point where the easterly line of the land conveyed by Adam Wiesner and wife to Henry S. Durand by deed recorded in Monroe county clerk's office in liber six hundred and six of deeds at page four hundred and forty-nine, extended northerly, would meet the same; thence southerly along said extended line and the said easterly line of the land of Henry S. Durand and the easterly line of land formerly owned by Charles S. Baker and conveyed by deed from Nelson P. Sanford to George Eastman recorded in Monroe county clerk's office in liber seven hundred forty of deeds at page thirty, to a point in the north line of lot number seven of the lake tract, said north line being also the north line of the east part of said George Eastman's land; thence easterly along said north line of said George Eastman's land to a point in the westerly line of Woodman road, so called; thence southerly along the said westerly line of said Woodman road, following the boundaries of the said land deeded to said George Eastman, to a point in the south line of said George Eastman's land; thence westerly along the south line of said George Eastman's land to a point in the easterly line of land of Joseph Buckner and wife conveyed to Henry S. Durand by an agreement recorded in Monroe county clerk's office in liber seven hundred forty-five of deeds at page seven; thence southerly along said easterly line

of said Henry S. Durand's land to a point in the southeasterly corner thereof, said point being also in the south line of lot number eight of the lake tract; thence westerly along the southerly line of said lands of said Henry S. Durand, being also the south line of said lot number eight, to a point thirty-three feet easterly measured at right angles from the center of the Wisner road, so called; thence southeasterly and southwesterly along a line parallel to said center line and thirty-three feet easterly therefrom to a point thirty-three feet northerly from the center line of a road running easterly at the junction with the Hoffman road, so called; thence southeasterly along a line parallel to said center line and thirty-three feet northerly therefrom, to a point thirty-three feet easterly from the center line of the Woodman road, so called; thence southwesterly and southerly along a line parallel to said center line and thirty-three feet easterly therefrom, to a point one hundred and fifty feet north of the north line of Norton street; thence easterly to a point one hundred and fifty feet east of the east line of the Woodman road; thence southerly on a line parallel to and one hundred and fifty feet distant from the east line of the Woodman road to a point in the northerly line of the right of way of the east side trunk sewer overflow through Densmore creek, as shown on a map on file in the city engineer's office; thence northeasterly along the northerly line of said right of way following its several courses across the land of said Rudolf and John Schneeberger to a point in the division line between the lands of said Schneeberger and of Christopher J. Loos, junior; thence northerly along said division line between said lands, to a point in the division line between the lands of said Christopher J. Loos, junior, and of Joseph Costich; thence easterly along said division line between said lands of said Loos and Costich to a point in the aforesaid northerly line of right of way; thence northeasterly along said right of way, following its several courses, across the land of said Joseph Costich, junior, to a point in the west line of the Forest House road, so called; thence easterly across the said Forest House road to a point in the east line thereof where the northerly line of the said right of way of the east side trunk sewer overflow across the land of Sepherine Costich meets the same; thence northeasterly along said northerly line of said right of way, following its several courses, across the land of said Sepherine Costich, to a point in the division line between the lands of said Sepherine Costich and of Gilbert Costich; thence westerly along said division line between said lands of said Sepherine Costich and Gilbert Costich to a point where the northerly line of said right of way of said east side trunk sewer overflow across the lands of said Gilbert Costich pursuant to an easement given by said Gilbert Costich and wife to the city of Rochester and recorded in Monroe county clerk's office in liber six hundred and seventy-six of deeds at page twenty-one, meets the same; thence northeasterly along said northerly line of said right of way, following its several courses, across the land of said Gilbert Costich to a point in the division line

between the lands of said Gilbert Costich and of Lewis Herman; thence southerly along said division line between the said lands of Costich and Herman, to a point where the said northerly line of the said right of way across the lands of said Lewis Herman meets the same; thence easterly and northerly along said northerly line of right of way, following its several courses, across the lands of said Lewis Herman, to a point in the southerly line of Norton street, so called; thence northerly across said Norton street to a point in the northerly line thereof where the said northerly line of said right of way across the lands of Richard Costich meets the same; thence northerly and easterly along said northerly line of right of way, following its several courses, across the land of said Richard Costich to a point in the division line between the land of said Richard Costich and Henry Livingston; thence easterly along said northerly line of right of way across the land of said Henry Livingston to a point in the division line between the lands of said Henry Livingston and John L. Koehler; thence northerly along said division line between the lands of said Henry Livingston and said John L. Koehler, to a point where the northerly line of said right of way across the land of said John L. Koehler would meet the same; thence easterly along said northerly line of right of way, following its several courses, across the land of said John L. Koehler to the westerly line of a road running northerly between the lands of said John L. Koehler and William H. Perrin; thence southerly along said westerly line of said road to a point where the northerly line of said right of way across the lands of William H. Perrin extended westerly across said road meets the same; thence easterly along said extended line and the said northerly line of said right of way, following its several courses, across the land of said William H. Perrin to a point in the division line between the land of said William H. Perrin and Frank H. Erbland; thence northerly along said division line between the lands of said William H. Perrin and Frank H. Erbland to a point where the said northerly line of said right of way across the lands of said Frank H. Erbland meets the same; thence easterly and northerly along said northerly line of said right of way, following its several courses, across the land of said Frank H. Erbland to a point in the division line between the lands of said Frank H. Erbland and George A. Meisenzahl; thence northerly and easterly along said northerly and westerly line of right of way following its several courses, across the land of said George A. Meisenzahl, to a point in the division line between the lands of said George A. Meisenzahl and Josepha Zwerger; thence northerly and easterly along said right of way, following its several courses, across the land of said Josepha Zwerger to a point in the division line between the lands of said Josepha Zwerger and J. Sebastian Zwerger; thence easterly along said northerly line of right of way, following its several courses, across the land of said J. Sebastian Zwerger, to a point in the division line between the lands of said J. Sebastian Zwerger and Emil Dozier; thence easterly along said northerly line of right

of way, following its several courses, across the land of said Emil Dozier, to a point in the division line between the lands of said Emil Dozier and Caroline Griebel; thence easterly along said northerly line of right of way, following its several courses, across the lands of said Caroline Griebel, to a point on the westerly shore of Irondequoit bay; thence southerly along the westerly shore of Irondequoit bay to a point where the southerly line of said right of way of the east side trunk sewer through Densmore creek meets the same; thence westerly along said southerly line of right of way, following its several courses, across the land of said Caroline Griebel, to a point in the division line between the lands of said Caroline Griebel and J. Sebastian Zwerger; thence westerly along said right of way, following its several courses, across the land of said J. Sebastian Zwerger, to a point in the division line between the lands of said J. Sebastian Zwerger and Josepha Zwerger; thence westerly and southerly along said southerly line of right of way, following its several courses, across the land of said Josepha Zwerger to a point in the division line between the lands of said Josepha Zwerger and George A. Meisenzahl; thence southerly and westerly along said southerly and easterly line of right of way, following its several courses, across the land of said George A. Meisenzahl to a point in the division line between the lands of said George A. Meisenzahl and Frank H. Erbland; thence southerly and westerly along said southerly line of right of way, following its several courses, across the land of said Frank H. Erbland to a point in the division line between the lands of said Frank H. Erbland and William H. Perrin; thence northerly along said division line between the lands of said Frank H. Erbland and William H. Perrin, to a point where the said southerly line of said right of way across the land of said William H. Perrin meets the same; thence westerly along said southerly line of right of way, following its several courses, across the land of said William H. Perrin, and along said southerly line of said right of way extended westerly across a road running northerly, between the lands of said William H. Perrin and John L. Koehler, to a point in the westerly line of said road; thence southerly along said westerly line of said road to a point where the southerly line of said right of way of the east side trunk sewer overflow through Densmore creek across the land of said John L. Koehler meets the same; thence westerly along said southerly line of said right of way, following its several courses, across the land of said John L. Koehler, to a point in the division line between the lands of said John L. Koehler and Henry Livingston; thence northerly along said division line between the lands of said John L. Koehler and Henry Livingston to a point where the southerly line of said right of way across the land of said Henry Livingston meets the same; thence westerly along said southerly line of said right of way, following its several courses, across the land of said Henry Livingston to a point in the division line between the lands of said Henry Livingston and Richard Costich; thence westerly and southerly along said southerly line of said right of way, fol-

lowing its several courses, across the land of said Richard Costich to a point in the northerly line of Norton street, so called; thence along said southerly line of right of way extended to a point in the southerly line of said Norton street; thence easterly along said southerly line of said Norton street to a point where the said southerly line of right of way through the land of Sepherine Case would meet the same; thence southwesterly along the said southerly line of right of way across the land of said Sepherine Case to a point in the division line between the lands of said Sepherine Case and Lewis Herman; thence northerly along said division line between the lands of said Sepherine Case and Lewis Herman to a point where the said southerly line of right of way across the said land of said Lewis Herman meets the same; thence southwesterly along said southerly line of right of way, following its several courses, across the land of said Lewis Herman to a point in the division line between the lands of said Lewis Herman and Gilbert Costich; thence westerly and southwesterly along said southerly line of right of way, following its several courses, across the land of said Gilbert Costich to a point in the division line between the lands of said Gilbert Costich and Sepherine Costich; thence westerly along said southerly line of right of way across the land of said Sepherine Costich, following its several courses, to a point one hundred and fifty feet east from the east line of the Woodman road measured at right angles; thence southerly from said point on a line parallel to and one hundred and fifty feet east of the east line of the Woodman road, to a point one hundred and fifty feet northeasterly from the easterly line of the Waring road measured at right angles; thence in a still southeasterly direction to the center line of Clifford avenue; thence westerly along the center line of Clifford avenue to its intersection with the center line of the Culver road; thence westerly along the said center of Clifford avenue to the place of beginning, constitutes the twenty-second ward.

§ 5. Sections three hundred and forty-five and three hundred and forty-six of such chapter are hereby amended to read, respectively, as follows:

§ 345. **Health districts.** The commissioner must divide the city into districts, to be known as "health districts," and may alter the same from time to time; and he must file with the city clerk a written designation of such districts and of any alteration thereof.

§§ 345, 346
amended.

§ 346. **City physicians.** The commissioner has power to appoint to hold office during his pleasure, such city physicians as may be authorized by the board of estimate and apportionment, and they must perform such duties as the commissioner may direct or prescribe. The deputy health officer and city physicians must render medical assistance to indigent sick persons under the direction of the health officer and of the commissioner of charities. This section does not apply to almshouses, hospitals or other public institutions which are provided with a regularly appointed medical and surgical staff.

§ 381, as
added by
L. 1918,
ch. 547,
amended.

§ 6. Section three hundred and eighty-one of such chapter, as added by chapter five hundred and forty-seven of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 381. **Attendance of nonresident pupils.** The board of education may allow the children of persons not residents of the city to attend the schools under the care and control of the board upon the payment of such tuition and upon such terms as the board may by resolution prescribe. Permission must be granted to children residing in those portions not annexed of school districts numbers two and ten of the town of Brighton, as such districts existed on the first day of March, nineteen hundred and thirteen, of school district number five of the town of Brighton, as the same existed on the first day of March, nineteen hundred and twenty-two, of school district number four of the town of Greece as the same existed on the first day of March, nineteen hundred and fifteen, and of school district number six of the town of Gates and numbers eight and ten of the town of Greece, as the same existed on the first day of March, nineteen hundred and eighteen, to attend without the payment of tuition schools under the care and control of the board. The board must cause to be made and filed in its office maps showing the boundaries of the aforesaid districts as existing on said respective dates.

§ 381,
subds. 1, 9,
10, as
amended by
L. 1918,
ch. 547,
re-enacted.
Assembly
districts
not af-
fected.

§ 7. Subdivisions one, nine and ten of section six hundred and thirty-one of such chapter, as last amended by chapter five hundred and forty-seven of the laws of nineteen hundred and eighteen,⁴ are hereby re-enacted to read, respectively, as follows:

1. The territory which has been heretofore or is herein annexed to the city of Rochester remains in the respective assembly districts of Monroe county in which it is now contained, until the same are changed according to law; and the proper officials of the state, the county of Monroe and the city of Rochester must make provision for the voting of the electors of such territory.

Rights in
highways
in annexed
territory.

9. Public highways and streets in the territory which has been heretofore or is herein annexed to the city of Rochester shall be and become highways and streets of the city of Rochester, and the rights, easements and title of all towns and villages in and to such highways and streets in such territory shall vest in and become the property of the city of Rochester.

Corporate
franchises
in annexed
territory.

10. Franchises or rights granted to or held by public service corporations, or other corporations, in the territory which has been heretofore or is herein annexed, whether acquired by grant, contract or otherwise, shall not be extended or enlarged, and the territory in respect to which such franchises or rights were granted, shall not be extended or enlarged by reason of the annexation of such territory.

Subds. 20-28
added to
§ 381.

§ 8. Section six hundred and thirty-one of such chapter, as last amended by chapter five hundred and forty-seven of the laws of nineteen hundred and eighteen, is hereby amended by adding

⁴ Previously amended by L. 1908, ch. 368; L. 1913, ch. 659; L. 1915, ch. 359.

thereto, after subdivision twenty-nine, nine new subdivisions, to be subdivisions thirty to thirty-eight, both inclusive, to read respectively as follows:

30. Assessments for the cost and expense of construction of public works or for the carrying out of the terms of any existing contract, in the towns of Brighton and Irondequoit, heretofore levied in whole or in part upon the territory hereby annexed and the liens thereof, shall not be affected by the passage of this act, and they shall be collected in the same manner and by the same officials as if this act had not been passed.

Provisions
respecting
annexed
territory.

31. The title to all real and personal property vested in, belonging to or held by or in the name of school district number five of the town of Brighton, or in, by or in the name of any board or officer thereof, is hereby transferred to and vested in the city of Rochester.

All moneys belonging to said school district shall be paid to the treasurer of the city of Rochester.

All books, records, tax rolls, assessment rolls, deeds, contracts and documents belonging to or in the possession of school district number five of the town of Brighton, its board and officers, shall forthwith be turned over to the mayor of the city of Rochester, and the mayor shall file the same in the proper offices, except that rolls and documents necessary to collect taxes heretofore levied upon property not annexed shall not be turned over.

All valid contracts entered into by said school district which remain unexecuted, excepting contracts of employment, shall be assumed and performed by the city of Rochester, and all the outstanding indebtedness of said school district as now existing shall be a charge upon and shall be paid by the city of Rochester as the same shall become due and payable.

32. School taxes heretofore levied by or on behalf or on account of district number two, union free school district number three and district number four of the town of Irondequoit on property hereby annexed shall be collected by the proper officers of said respective school districts, or of said town, or of the county of Monroe.

33. All taxes of school district number five of the town of Brighton which shall have been levied and shall remain uncollected, in whole or in part, shall be and are hereby declared to be valid and effectual, notwithstanding any irregularity in the making, levying or assessment of same, and shall be valid liens on the lands against which the same are assessed, and shall belong to the city of Rochester, and shall, so far as the same are levied on lands in the annexed territory, be collectible in the same manner as other taxes and assessments levied by the city of Rochester, its boards or officers; and all taxes of said school district upon lands not hereby annexed shall be collected by the proper officers of said school district, and when collected shall be paid over to the treasurer of the city of Rochester.

34. The city of Rochester shall assume and be chargeable with the sum of four hundred dollars to be applied upon the debt of

school district number two of the town of Irondequoit, with the sum of twelve thousand dollars to be applied upon the debt of union free school district number three of the town of Irondequoit, with the sum of three hundred dollars to be applied upon the debt of school district number four of the town of Irondequoit, with the sum of three hundred dollars to be applied upon the town of Irondequoit's share of the cost of the construction of the East Side boulevard.

35. The title of all real property in the territory hereby annexed, vested in, belonging to, or held by or in the name of the town of Irondequoit, or the town of Brighton, except the town hall in the town of Brighton located in the territory hereby annexed, or in, by or in the name of any board or officer thereof, is hereby transferred to and vested in the city of Rochester.

36. The powers and duties of all town, village, highway, school district and assessment district officers and employees, over and with respect to the territory hereby annexed, shall cease and determine, except as herein provided for the collection by the proper officers of certain taxes and assessments.

37. All special assessments levied during the year nineteen hundred and twenty-two on the territory hereby annexed included in whole or in part within any special assessment district or districts shall be collected by the proper officers of such assessment district, or of the towns in which they are located, or of the county of Monroe and shall when collected be paid to the treasurer of the city of Rochester.

38. The city of Rochester has the power annually to assess on the property benefited any part of any tax or assessment, or the whole thereof, in the manner otherwise provided in this charter, for the whole or part of the cost and expense of any work or improvement heretofore made in the territory hereby annexed, for the cost of which there is an indebtedness outstanding and the payment of which is, or has herein been made, a charge upon the city of Rochester.

Subds. 39-42
added to
§ 631.

§ 9. Section six hundred and thirty-one of such chapter, as last amended by chapter five hundred and forty-seven of the laws of nineteen hundred and eighteen, is hereby amended by adding thereto four new subdivisions, to be subdivisions thirty-nine to forty-two, both inclusive, to read respectively as follows:

Provisions
respecting
annexed
territory.

39. School district number five of the town of Brighton and the assessment districts and special districts wholly included within the territory hereby annexed shall not after the taking effect of this act have the power to issue any bonds or notes, or to incur any indebtedness exceeding five hundred dollars in amount, without the approval in writing of the mayor of the city of Rochester, and shall not convey, sell or transfer any property, real or personal, without like approval, and shall not have the power to enter into any contract which provides for the payment of money after the first day of January, nineteen hundred and twenty-three, or for the doing of any work after said date, without like approval.

40. Any officer of the city of Rochester may examine all books, records, tax rolls, assessment rolls, deeds, maps, contracts and documents of the town of Brighton or the town of Irondequoit or any school districts, assessment districts, or special districts of such towns, and all other boards and officers, affecting the territory hereby annexed.

41. Notwithstanding the provisions of any law, general or special, no new school, assessment or special districts shall after the taking effect of this act and prior to the first day of January, nineteen hundred and twenty-three, be erected or created within, or including any part of, the territory hereby annexed, without the approval in writing of the mayor of the city of Rochester.

42. Taxes for town, school or highway purposes, or for the use or benefit of an assessment district or special district included within the territory hereby annexed, hereafter and during the year nineteen hundred and twenty-two, spread or levied on lands in the territory hereby annexed, shall be only for such proportionate share of the expense thereof as will be incurred prior to January first, nineteen hundred and twenty-three, and in case a greater amount is spread or levied upon lands in such territory, it shall be the duty of the board of supervisors of the county of Monroe to cancel the same so far as it exceeds said amount, and if it has been paid refund such excess and to charge the same against the proper town or district.

§ 10. Subdivision one of section six hundred and thirty-six of such chapter, as last re-enacted by chapter five hundred and forty-seven of the laws of nineteen hundred and eighteen,⁵ is hereby re-enacted to read as follows:

1. The territory which has heretofore or is herein added and annexed to the city of Rochester becomes a part of said city, and is governed and administered in all respects the same and is subject to the same laws and ordinances as the remainder of said city.

§ 11. Sections five and nine of this act shall take effect immediately; the remainder of this act shall take effect on the first day of January, nineteen hundred and twenty-three.

§ 636,
subd. 1, as
re-enacted
by L. 1918,
ch. 547,
re-enacted.

In effect
Jan. 1,
1923; ex-
ceptions.

CHAPTER 520

AN ACT to amend the town law, in relation to the construction and alteration of buildings and laying out of thoroughfares.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-one-a of chapter sixty-three of the laws of nineteen hundred and nine, entitled "An act relating to towns, constituting chapter sixty-two of the consoli-

L. 1909,
ch. 63,
§ 141 a, as
added by
L. 1920,
ch. 263,
amended.

⁵ Previously amended by L. 1913, ch. 659; L. 1915, ch. 359; and re-enacted by L. 1914, ch. 122.

dated laws," as added by chapter two hundred and sixty-three of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 141-a. **Power of town board, in certain towns, to adopt building code.** The town board of a town, having a population of twenty thousand and upwards in a county of not more than three hundred thousand and adjoining a city of one million or more according to the last state or federal enumeration, and the town board of any town adjoining any city of the first class,¹ may adopt and establish and provide for the enforcement of a building code regulating and controlling all matters concerning, affecting or relating to the construction, alteration or removal of buildings or structures erected or to be erected in such town not included within the limits of an incorporated village and requiring permits for the erection, alteration or removal of such buildings and structures.

²Any such town board also may enact ordinances, not inconsistent with the provisions of the highway law, governing the laying out of thoroughfares in subdivisions of tracts of land within such town, which ordinances may prescribe the location, width and grade of all thoroughfares laid out as part of a real estate subdivision. No such subdivision map of land within said town shall be accepted by the county clerk for filing or recording unless a certificate from the town board is attached thereto certifying a compliance with such ordinances.

The town board, by ordinance, may impose penalties for the violation of such ordinances or code, but no penalty for a single violation shall exceed one hundred dollars. The town board may maintain actions at law, in any court of competent jurisdiction, for the recovery of such penalties, in behalf of the town, and two or more penalties incurred by the same person may be sued for in the same action. A justice's court in the town shall have jurisdiction of such an action, where the amount sued for does not exceed two hundred dollars, or complaint for a violation of such an ordinance or code may be made by any person to such justice's court and the court may impose a fine equal to the penalty prescribed for such violation and commit a person convicted of a violation to the county jail, in case of default of payment of the fine, for one day for each dollar of the fine, but not exceeding thirty days. Any such ordinance or code may provide that a continuing violation for twenty-four hours shall constitute a separate and distinct violation. Ordinances which the town board may adopt, or such code, or amendments to either, shall be published before they shall go into effect in a newspaper published in the town, if any, and also in such other newspaper or newspapers as may be designated by the town board, and posted in at least three public places in the town. Such ordinances, code or amendments shall take effect ten days after the date of such publication, if

¹ Words "and the town board of any town adjoining any city of the first class," new.

² Remainder of section new.

any, and posting. In any action or proceedings the certificate of the town clerk shall be prima facie evidence of the adoption and publication of all such ordinances, code or amendments.

§ 2. This act shall take effect immediately.

CHAPTER 521

AN ACT to amend the charter of the city of White Plains, generally.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four of chapter three hundred and fifty-six of the laws of nineteen hundred and fifteen, entitled "An act to incorporate the city of White Plains," is hereby amended to read as follows: L. 1915, ch. 354, § 4 amended.

§ 4. **Corporate name and powers.** The citizens of the state of New York, from time to time inhabitants of the territory comprised within the boundaries of the city of White Plains, shall be a municipal corporation, by the name of "The city of White Plains," and shall be a municipal corporation in perpetuity under its corporate name and the same shall in that name be a body politic and corporate in fact and in law, with power of perpetual succession. The city shall have power to make, have and use, and from time to time alter, a corporate seal; to sue and be sued; to acquire property in fee simple, or lesser interest or estate, by condemnation or by purchase, gift, devise, lease, or lease with the privilege to purchase, for any municipal purpose; to sell, lease, hold, manage and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; to acquire by purchase or condemnation, contract, own, lease and operate and regulate public utilities; to assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax; to appropriate the money of the city for all lawful purposes; to create, provide for, construct, regulate and maintain all things of the nature of public works and improvements and prescribe the width and grade of streets, and sidewalks and provide for the numbering of the lots or buildings adjoining the street; to levy and collect assessments for local improvements; to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade which it may be necessary or proper to license or regulate, to promote the health, morals, safety or general welfare of its inhabitants; to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort,

safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height and material used in all buildings, and the maintenance and occupancy thereof; may regulate the planting, maintenance, protection and control of shade trees planted or growing upon the public highways or public places of said city, and for that purpose shall have power to enact an ordinance or ordinances providing for the appointment of a shade tree commission;¹ and establish fire limits and require the erection of fire escapes; may regulate and license the construction of bill boards, signs and similar structures; may regulate and control the use, for whatever purposes of the streets and other public places and require and compel railroad companies to provide flagmen or to erect and maintain gates at street crossings at grade and to suitably protect street crossings other than at grade and to regulate the obstruction of the streets by railway locomotives and cars and their running and rate of speed; may compel the owner or occupants of any premises adjoining any street to construct, maintain and repair sidewalks in front of said premises, including the space between the outside limits of the street and the curb and to erect barriers or safeguards at dangerous places and to remove snow and ice from such sidewalks and barriers and in case of the failure of such owner or occupant to remove such snow and ice, to assess the cost and expense thereof against such property; may create, establish, abolish and organize offices and fix the salaries and compensation of all officers and employees; may make and enforce local police, sanitary and other regulations; may regulate and license the running at large of dogs and provide for impounding and killing unlicensed dogs, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city; and for the performance of the functions thereof. The city shall have all the powers that now are or hereafter may be granted to municipalities by the constitution or laws of the state of New York; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this act, or when not prescribed herein, in such manner as shall be provided by ordinance or resolution of the common council. The enumeration of particular powers in this act shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein implied thereby or appropriate to the exercise thereof, the city shall have and may exercise, all other powers which, under the constitution and laws of the state of New York, it would be competent for this act specifically to enumerate.

§ 67
amended.

§ 2. Section sixty-seven of such chapter is hereby amended to read as follows:

§ 67. **Bonds.** The common council shall have power to issue bonds for any municipal purpose except as herein limited. No bonds of the city shall be issued except pursuant to a resolution of the common council, concurred in by at least two-thirds of its

¹ Words "may regulate the planting . . . shade tree commission," new.

members. All bonds shall be signed by the mayor, countersigned by the commissioner of finance and attested by the city clerk. All bonds and interest shall be payable at the office of the commissioner of finance. Provision shall be made for the redemption of the same number of bonds each year succeeding the year in which the bonds of an issue first mature, except, when necessary, the last year. Interest on bonds shall be payable semi-annually. Bonds shall mature within the limitations prescribed by this act and bear such rate of interest, not exceeding six per centum per annum, as the common council determines. No bonds shall be issued for a longer term than thirty-five years. The bonds of an issue for the acquisition of real property or the construction of buildings or trunk sewers must begin to mature within ten years from the date of issue. No bonds of an issue for purposes other than the acquisition of real property, or the construction of buildings or sewers shall be issued for more than ten years, and the bonds of such issues must begin to mature within three years from the date of issue. No bonds shall be issued for current operating expenses, repairs or supplies, or for the city's share of the cost of curbs, gutters or sidewalks. Any bond or bonds or certificate or certificates of indebtedness which are obligations binding upon the territory or any part thereof hereby incorporated as the city of White Plains, at the time this act takes effect may be refunded when they become due and payable by the common council issuing new bonds in place of said bond or bonds becoming due and payable. Such new bond or bonds to be payable at such times and bearing such rate of interest, not exceeding six per centum, as the common council shall determine. Such refunding bonds to be issued in the manner provided in this act for the issuance of bonds.

No bonds exceeding fifty thousand dollars for any one particular purpose shall be issued in any one calendar year² by the common council unless a proposition has been adopted authorizing such issue, which proposition may be submitted at the regular municipal election, or at a special election held for that purpose. Notice of a special election for the submission of a proposition shall be given in the same manner as for a regular municipal election. All votes upon a proposition submitted at a city election shall be by ballot, and the provisions of the election law relating to ballots apply to propositions submitted under this section.

To entitle a person to vote upon a proposition he must be entitled to vote for city officers, and he must also be the owner of property in the city assessed upon the last preceding assessment roll thereof. A woman who possesses the qualifications to vote for city officers, except the qualifications of sex, who is the owner of property in the city assessed upon the last preceding assessment roll thereof, is entitled to vote upon such a proposition.

§ 3. Section ninety-two of such chapter is hereby amended to § 92
read as follows: amended.

² Words "in any one calendar year" new.

§ 92. **Transfer of tax liens.** A transfer of tax lien shall operate to transfer and assign the tax lien upon the lands or tenements described therein for the taxes, assessments and water rents, and penalties and interest thereon, and the charges of the notices and advertisement given pursuant to section eighty-nine of this act, and all other costs and charges, so advertised for sale, free of all taxes, assessments and water rents which accrued before the day of the date mentioned in the advertisement of the sale as stated therein, and to create a lien upon the property affected thereby for the interest to which the purchaser may be entitled under his bid, but subject to the lien for and right of the city to collect and receive all taxes, assessments and water rents which accrued or which become a lien on and after the day of the date of the first advertisement of such sale as stated therein. A transfer of tax lien shall contain a transfer and assignment by the city of the tax lien sold to the purchaser, the date of the sale, the aggregate amount of the tax lien so transferred, and the items of taxes, assessments, water rents, penalties and interest composing the tax lien, the annual rate of interest which the purchaser has bid and will be entitled to receive, the date when the amount of the tax lien will be due, and a description of the real property affected by the tax lien, and shall refer for certainty to the designation of said lot on the official city map, by its lot number and the number of the block and ward in which it is contained, and such other identifying description as the commissioner of finance may deem proper to add. Each transfer of tax lien shall be subscribed by or in behalf of the commissioner of finance making the sale, or a successor in office of such commissioner of finance and shall be acknowledged by the officer subscribing the same in the manner in which a deed is required to be acknowledged to be recorded in the county in which the real property affected is situated. * The commissioner of finance may assign any transfer of tax lien made and delivered to the city upon payment of the amount thereof, with interest at the rate bid to the time of such assignment.

§ 94
amended.

§ 4. Section ninety-four of such chapter is hereby amended to read as follows:

§ 94. **Rights of purchaser of tax lien.** The aggregate amount of each tax lien transferred pursuant to this title shall be due three years from the date of the sale. Until such aggregate amount is fully paid and discharged, the holder of the transfer of tax lien shall be entitled to receive interest on such aggregate amount from the day of sale, semi-annually on the first day of January and July, at the rate which the purchaser shall have bid. At the option of the holder of any transfer of tax lien the aggregate amount thereof shall become due and payable after default in the payment of interest for thirty days or after default for six months after the delivery of transfer tax lien in the payment of any taxes, assessments or water rents, which became a lien on and after the day of the date mentioned in the advertise-

* Remainder of section new.

ment of the sale as stated therein, of the tax lien transferred by such transfer of tax lien. Any person having a legal or beneficial interest in property affected by a transfer of tax lien may satisfy the same before maturity upon giving thirty days' notice in writing to the holder thereof of the day on which payment will be made and upon payment of the principal with interest at the rate bid to a time three months after the date so fixed for payment. If notice of intention to make payment be given as herein provided, and such payment be not made, then the whole amount of any tax lien concerning which such notice shall have been given shall become due and payable at the option of the holder thereof. Or any such person may pay to the commissioner of finance such principal with interest at the rate bid up to a day six months after such payment. In case such payment be made to the commissioner of finance he shall receive the same for the benefit of the holder of the tax lien thus discharged, and shall give notice thereof to the purchaser or the personal representative or assignee of the purchaser, by mail, addressed to such address as may have been furnished to the commissioner of finance. Upon receiving surrender of such transfer of tax lien the commissioner of finance shall pay the amount thus deposited to the person who, according to the records in his office, appears to be entitled thereto, or to the personal representative of such person, ³ except when any party to an action to foreclose a tax lien or any purchaser or person having an interest in the premises may file a written notice that an action for that purpose is pending with the commissioner of finance, and thereafter said commissioner shall not be authorized to discharge said lien or receive any sum or sums of money for that purpose unless the party desiring to satisfy the same shall pay the amount of such lien, with interest to the date of payment, and interest for thirty days additional, and all other taxes, tax liens or charges against the premises, and also all costs, charges and disbursements in the foreclosure action to date of payment, the amount of which shall be determined as in an action for the foreclosure of a mortgage; or shall file with the said commissioner the original transfer of tax lien and a satisfaction thereof duly executed by the plaintiff in the action.

§ 5. Section ninety-seven of such chapter is hereby amended to read as follows: § 97
amended.

§ 97. **Foreclosure of tax lien.** If the amount of any tax lien which shall have been transferred by a transfer of tax lien shall not be paid when under its terms and provisions of this title such amount shall be due, the holder of such tax lien may maintain an action in the supreme court to foreclose such tax lien. In an action to foreclose a tax lien any person shall be a proper party of whom the plaintiff alleges that such person has or may have or that the plaintiff has reason to believe that such person has or may have an interest in or claim upon the real property affected by the tax lien. Except as otherwise provided in this title an action to fore-

³ Remainder of section new.

close a tax lien shall be regulated by the provisions of the civil practice act,⁴ and by all other provisions of law, and rules of practice applicable to actions to foreclose mortgages on real property. The people of the state of New York may be made party to an action to foreclose a tax lien in the same manner as a natural person. Where the people of the state of New York or the city of White Plains is made a party defendant the complaint shall set forth, in addition to the other matters required to be set forth by law, detailed facts showing the particular nature of the interest in or the lien on the said real property of the people of the state of New York or the city of White Plains, and detailed facts showing the particular nature of the interest in or the lien on said real property which plaintiff has reason to believe that the people of the state of New York or the city of White Plains has or may have in the said real property, and the reason for making the people of the state of New York or the city of White Plains a party defendant. Upon failure to state such facts the complaint shall be dismissed as to the people of the state of New York or the city of White Plains.

§ 100
amended.

§ 6. Section one hundred of such chapter is hereby amended to read as follows:

§ 100. **Judgment of foreclosure of tax lien.** In an action to foreclose a tax lien, unless the defendants obtain judgment, the plaintiff shall be entitled to a judgment establishing the validity of the tax lien so far as the same shall not be adjudged invalid and of the transfer of tax lien, and directing the sale of the real property affected thereby, or such part thereof as shall be sufficient to discharge the tax lien, or such item thereof as shall not be adjudged invalid and the interest thereon and all other accrued taxes, assessments and water rents affecting the real property, together with the expenses of the sale and the costs of the action. ⁵ The judgment of foreclosure shall direct the payment of (a) the costs, disbursements and expenses of the foreclosure action and of the sale thereunder; (b) all taxes, assessments, water rates, tax liens or transfers of tax liens for the same, which are a lien against the premises so sold subsequent to the taxes or assessments covered by the lien so foreclosed; (c) all taxes, assessments and water rates or interest acquired from the sale or lease of the premises for the same, which are still unpaid and due and owing to the city as of the date of the taxes for which the tax lien therein was sold, with all interest, penalties and charges thereon; (d) the amount of the tax lien foreclosed or so much thereof as the balance of the proceeds of sale will pay the same; (e) the surplus, if any there be.

§ 101
amended.

§ 7. Section one hundred and one of such chapter is hereby amended to read as follows:

§ 101. **Effect of judgment foreclosing tax lien.** Every final judgment in an action to foreclose a tax lien shall be binding

⁴ Words "civil practice act" substituted for words "code of civil procedure."

⁵ Remainder of section new.

upon, and every conveyance upon a sale pursuant thereto shall transfer to and vest in the purchaser all the right, title, interest and estate in claim upon the real property affected by such judgment of the plaintiff, each defendant upon whom the summons is served, each person claiming from, through or under such a defendant by title accruing after the filing of notice of pendency of the action or after the entry of judgment and filing of the judgment roll in the proper county clerk's office, and each person not in being when the judgment is rendered, who afterwards may become entitled to a beneficial interest attaching to, or an estate or interest in such real property or any portion thereof, provided that the person presumptively entitled to such beneficial interest, estate or interest is a party to such action or bound by such judgment. So much of section two hundred and seventeen of the civil practice act⁶ as requires the court to allow a defendant to defend an action after final judgment shall not apply to an action to foreclose a tax lien. Delivery of the possession of real property affected by a judgment to foreclose a tax lien may be compelled in the manner prescribed in section nine hundred and eighty-five of the civil practice act.⁷

§ 8. Section one hundred and eighty-three of such chapter, as amended by chapter three hundred and twenty-two of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows: § 183, as amended by L. 1921, ch. 322, amended.

§ 183. **Expense of paving; how apportioned and assessed.** Upon the completion of the work of construction and⁸ when the total expense of any pavement constructed under the provisions of this act, including assessing, printing, surveying, engineering, inspecting and superintending, and any increased cost of such payment incident to guaranty, and when the cost to the city of any state or county highway constructed under the provisions of the highway law, shall be ascertained, the commissioner of finance shall deduct from such total expense the amount which, by law, is chargeable to any public corporation, having and operating a franchise through said street so paved, repaved or resurfaced, and the balance shall be divided, rated and assessed between the city at large and the adjacent property owners as follows: One-half thereof shall be charged to the city at large, and one-half shall be assessed by the commissioner of finance upon and among the owners of real estate fronting upon such street, or part of streets, in proportion to the number of feet front which each owns thereon. And where a street, or part of a street, is graded and paved, or repaved, macadamized or resurfaced, upon the foundation of a pavement already constructed which is intersected by a street or streets, alley or land used as a public highway, one-half of the expense of grading and paving, repaving, macadamizing or resur-

⁶ Words "two hundred and seventeen of the civil practice act," substituted for words "four hundred and forty-five of the code of civil procedure."

⁷ Words "nine hundred and eighty-five of the civil practice act," substituted for words "sixteen hundred and seventy-five of the code of civil procedure."

⁸ Words "Upon the completion of the work of construction and," new.

facing, upon the foundation of a pavement already constructed, the number of feet of the intersection as aforesaid shall be equalized among the owners, or the real estate fronting upon such street so graded and paved, repaved, macadamized or resurfaced.

§ 302, as
amended by
L. 1919,
ch. 124,
amended.

§ 9. Section three hundred and two of such chapter, as amended by chapter one hundred and twenty-four of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 302. **Pensions, to whom granted.** The board of trustees of the police pension fund created by this act shall have power to grant pensions as hereinafter provided to any member of the police force of said village at the time of the passage of this act, or to any person who may hereafter become a member of the police force who may have signed the consent in writing as hereinbefore provided as follows:

1. To the widow of any member of the police force at the time of the passage of this act, or who may hereafter become a member of the police force who shall have been killed while in the actual performance of police duty, or shall have died from the effects of any injury received while in the actual discharge of such duty, provided such death shall not have been caused by misconduct on his part, such sum per annum as may in the discretion of the board of trustees of said fund be deemed proper.

2. To any child or children under sixteen years of age of such member of the police force killed or dying as aforesaid, but leaving no widow, or if a widow, then after her death to such child or children being yet under sixteen years of age, such sum as the board of trustees of said fund may deem proper.

3. To any such member of the police force who, while in the actual performance of police duty, and by reason of the performance of such duty, and without fault or misconduct on his part, shall have become permanently disabled physically or mentally so as to be unfitted to perform full police duty, such sum per annum as the said board of trustees of the pension fund shall deem proper.

4. Any such member of the police force who has or shall have performed police duty for a period of twenty years or upwards upon his own application or upon the certificate of the surgeon of said police force certifying that such member is permanently disabled so as to be unfit for police duty may, in the discretion of the common council with the approval of the commissioner of public safety, be retired from service and placed upon the police pension roll, and therefrom, shall be awarded, granted and paid from said police pension fund by the trustees thereof an annual sum during his lifetime, equivalent to one-half⁹ the full pay of a member of said police force of the rank of the member so retired. Pensions granted under this section shall be for the natural life of the officer, and, except as otherwise provided by law,¹⁰ shall not be revoked, repealed or diminished. In case any retired member

⁹ Words "equivalent to one-half" substituted for words "not exceeding one-half or less than one-fourth."

¹⁰ Words "except as otherwise provided by law" new.

of said police force shall die leaving a widow, such widow shall be entitled to receive three hundred dollars per annum during her life. In case such retired member shall leave a minor child, or children, and no widow, then the board of trustees of such pension fund shall pay to the guardian of such minor child or children such pension per annum as the board may deem proper, not to exceed in all three hundred dollars.

5. Pensions to widows shall terminate when the widow shall remarry and pensions to children shall terminate whenever the children shall, respectively, arrive at the age of sixteen years. The common council may, in its discretion, order any pension granted or any part thereof to cease, except to members of the police force retired after twenty years' service, as hereinbefore provided; but in all such cases the said common council shall file with the city clerk a written statement of the causes which determine them in ordering any pension to so cease, and nothing herein contained shall render the granting or payment of such pension obligatory on the common council, as the trustees of the police pension fund, except as hereinbefore provided.

6. No member of the police force shall be awarded, granted or paid a pension on account of physical or mental disability or disease unless upon the certificate of a competent surgeon who shall have been assigned by the commissioner of public safety, which shall set forth the cause, nature and extent of the disability, disease or injury of each member of the police force who may be placed upon the pension roll, and said certificate shall distinctly state whether or not such disability, disease or injury was incurred or sustained by said member of the police force in the performance of police duty, and such certificate shall in each case be filed with and entered upon the minutes of the common council.

7. No member of the said police force shall be entitled to any benefits of this act in any way whatever unless he shall have signed a consent in writing to the effect that two per centum of his salary shall be taken for the benefit of the police pension fund, as hereinbefore provided, nor unless he shall continue to permit the same to be taken so long as he shall remain an active member of said force. The time for the commencement of the two per centum to run shall be at the date of the passage of this act as to members then on the force, and as to those members who may subsequently be appointed it shall commence on the date of their appointment.

§ 10. Section three hundred and five of such chapter, as added by chapter one hundred and twenty-four of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 305. Pensions, to whom granted. The board of trustees of the fire department pension fund created by this act shall have power to grant pensions as hereinafter provided to any member of the paid fire department of said city at the time of the passage of this act, or to any person who may hereafter become a member of the paid fire department who may have signed the consent in writing as hereinbefore provided, as follows:

§ 305, as
added by
L. 1919,
ch. 124,
amended.

1. To the widow of any member of the paid fire department at the time of the passage of this act, or who may hereafter become a member of the paid fire department, who shall have been killed while in the actual performance of fire duty, or shall have died from the effects of any injury received while in the actual discharge of such duty, provided such death shall not have been caused by misconduct on his part, such sum per annum as may in the discretion of the board of trustees of said fund be deemed proper.

2. To any child or children under sixteen years of age of such member of the paid fire department killed or dying as aforesaid, but leaving no widow, or if a widow, then after her death to such child or children being yet under sixteen years of age, such sum as the board of trustees of said fund may deem proper.

3. To any such member of the paid fire department who, while in the actual performance of fire duty, and by reason of the performance of such duty, and without fault or misconduct on his part, shall have become permanently disabled physically or mentally, so as to be unfitted to perform full fire duty, such sum per annum as the said board of trustees of the pension fund shall deem proper.

4. Any such member of the paid fire department who has or shall have performed duty as a paid fireman for a period of twenty years or upwards upon his own application or upon the certificate of the surgeon of said fire department certifying that such member is permanently disabled so as to be unfitted for fire duty may, in the discretion of the common council with the approval of the commissioner of public safety, be retired from service and placed upon the fire department pension roll, and therefrom shall be awarded, granted and paid from said fire department pension fund by the trustees thereof an annual sum during his lifetime, equivalent to one-half ¹¹ the full pay of a member of said fire department of the rank of the member so retired. Pensions granted under this section shall be for the natural life of the member, and, except as otherwise provided by law, ¹² shall not be revoked, repealed or diminished. In case any retired member of said fire department shall die leaving a widow, such widow shall be entitled to receive three hundred dollars per annum during her life; In case such retired member shall leave a minor child, or children, and no widow, then the board of trustees of such pension fund shall pay to the guardian of such minor child or children such pension per annum as the board may deem proper, not to exceed in all three hundred dollars.

5. Pensions to widows shall terminate when the widow shall remarry and pensions to children shall terminate whenever the children shall, respectively, arrive at the age of sixteen years. The common council may, in its discretion, order any pension granted or any part thereof to cease, except to members of the

¹¹ Words "equivalent to one-half" substituted for words "not exceeding one-half or less than one-fourth."

¹² Words "except as otherwise provided by law" new.

paid fire department retired after twenty years' service, as hereinbefore provided; but in all such cases the said common council shall file with the city clerk a written statement of the causes which determined them in ordering any pension to so cease, and nothing herein contained shall render the granting or payment of such pension obligatory on the common council, as the trustees of the fire department pension fund, except as hereinbefore provided.

6. No member of the paid fire department shall be awarded, granted or paid a pension on account of physical or mental disability or disease unless upon the certificate of a competent surgeon who shall have been assigned by the commissioner of public safety, which shall set forth the cause, nature and extent of the disability, disease or injury of each member of the paid fire department who may be placed upon the pension roll, and said certificate shall distinctly state whether or not such disability, disease or injury was incurred or sustained by said member of the paid fire department in the performance of fire duty, and such certificate shall in each case be filed with and entered upon the minutes of the common council.

7. No member of the said paid fire department shall be entitled to any benefits of this act in any way whatever unless he shall have signed a consent in writing to the effect that two per centum of his salary shall be taken for the benefit of the fire department pension fund, as hereinbefore provided, nor unless he shall continue to permit the same to be taken so long as he shall remain an active member of said paid fire department. The time for the commencement of the two per centum to run shall be the first day of January, nineteen hundred and nineteen, as to members then in said fire department, and who are now members thereof, and as to those members who may subsequently be appointed, it shall commence on the date of their appointment.

§ 11. Section three hundred and six of such chapter, as thus § 206, as renumbered and amended by chapter one hundred and twenty-four of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 306. **Liability of city and trustees.** Nothing in this act contained shall be construed to render the city of White Plains liable for the payment of any moneys whatever. Nothing in this act contained shall be construed as in any manner binding or holding the common council for any pension or other moneys to be paid under this act beyond the income which shall be derived from the said funds,¹³ except that, when in the judgment of the common council the income derived from said funds shall be inadequate fully to carry out the provisions of this act, said common council is hereby given the authority to use both the principal and the income of said funds for the payment of annuities hereinbefore mentioned, and in such case said common council shall have the authority to reduce from time to time the amount of all annuities, provided that such reduction shall be at the same rate in all cases.

¹³ Remainder of sentence new.

Except as herein provided,¹⁴ no pension shall be paid to any member of said police force or paid fire department except from the income to be derived from the said police pension or fire department funds, as the case may be.

§ 12. This act shall take effect immediately.

CHAPTER 522

AN ACT to authorize the commissioners of the land office to grant to the village of Ocean Beach in the county of Suffolk land under waters of Great South bay and the Atlantic ocean for public purposes.

Became a law April 6, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the land office of the state of New York are hereby authorized, in their discretion and upon such terms and conditions as they deem proper, to grant and convey to the village of Ocean Beach, in the county of Suffolk, all the estate, right, title and interest of the people of the state of New York, in and to the lands under water and lands between high and low water mark in the Atlantic ocean and Great South bay adjacent to the village of Ocean Beach. Such lands may be filled in by said village or otherwise improved and used for dock, park and recreation purposes.

§ 2. This act shall take effect immediately.

CHAPTER 523

AN ACT to amend the village law, in relation to the regulation of the landing of boats.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision nineteen of section ninety of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended to read as follows:

19. Landing of boats; passengers. To regulate or prevent the landing within the village of excursion boats, or passengers therefrom,¹ and to regulate or prevent the landing within the village of boats regularly carrying passengers or freight or both or grant such franchises therefor as may be deemed advisable.

§ 2. This act shall take effect immediately.

¹ Remainder of subd. 19 new.

¹⁴ Words "Except as herein provided" new

CHAPTER 524

AN ACT to amend the charter of the city of Buffalo, to authorize such city to provide a site and building for the Buffalo Society of Natural Sciences.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter two hundred and seventeen of the laws of § 5a added to L. 1914, ch. 217, nineteen hundred and fourteen, entitled "An act to provide a charter for the city of Buffalo," is hereby amended by inserting therein a new section to follow section five, to be section five-a, and to read as follows:

§ 5-a. The council of the city of Buffalo shall have discretionary authority to provide a site and furnish money for the construction and equipment in whole or in part, of a building for the use and occupation of the Buffalo Society of Natural Sciences. Such site may be provided either by setting apart for such purpose land owned or acquired by such city for park or playground purposes, or by purchasing or otherwise acquiring land or property not previously devoted to a public use. The council may provide the money for such site or building or equipment by the issuance and sale of its bonds in such amounts, for such terms, and at such rate of interest as it may determine, and such bonds shall be issued and sold in the manner provided by this chapter. The council may, in its discretion, impose such conditions upon the exercise of the powers conferred upon it by this section as it may determine to be for the best interests of the city and as shall not be inconsistent with the purposes for which said society was organized.

§ 2. This act shall take effect immediately.

CHAPTER 525

AN ACT to amend the conservation law, in relation to the taking of muskrat.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and one of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to the conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve, and last amended by chapter two hundred and fifty-eight of the laws of L. 1911, ch. 647, § 201, as added by L. 1912, ch. 318, and amended by L. 1921, ch. 253, amended.

nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 201. **Muskrat; open season.** Muskrat may be taken in any manner, except as herein prohibited, day or night, and possessed from December first to March thirty-first, both inclusive. Except that in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, Onondaga, Oswego,² Saint Lawrence, Warren, Washington, and that portion of Herkimer county lying north of the towns of Ohio and Russia, the open season shall be from December first to April twentieth, both inclusive. Muskrat houses or dens shall not be molested, injured or disturbed at any time. The taking of muskrats by shooting is prohibited. Except that during the open season muskrats may be taken within the counties bordering upon Lake Champlain by shooting with a firearm of a calibre not larger than twenty-two. The use of the so-called box, wire or cage trap is prohibited.

§ 2. This act shall take effect immediately.

CHAPTER 526

AN ACT authorizing the board of estimate and apportionment of the city of New York, in its discretion, to take action relative to the supplemental and additional assessment in the proceedings to acquire title, et cetera, to Tibbett avenue from West Two Hundred and Thirtieth street to West Two Hundred and Fortieth street and Corlear avenue from West Two Hundred and Thirtieth street to West Two Hundred and Fortieth street, twenty-fourth ward, borough of the Bronx, in such city.

Accepted by the City.

Became a law April 6, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

City may
assume
additional
assessment.

Section 1. The board of estimate and apportionment of the city of New York, is hereby authorized and empowered, in its discretion, to assume on behalf of the city of New York the cost of the additional and supplemental assessment in the proceeding to acquire title, et cetera, to Tibbett avenue from West Two Hundred and Thirtieth street to West Two Hundred and Fortieth street, and Corlear avenue from West Two Hundred and Thirtieth street to West Two Hundred and Fortieth street, twenty-fourth ward, borough of Bronx, in such city, dated May thirteenth, nineteen hundred and fifteen, and confirmed by an order of the supreme court, entered September seventeenth, nineteen hundred and fifteen, including the awards for damages, costs and all other expenses in said proceedings, or of one or more of said proceedings, or such part of such costs as said board may determine.

¹ Previously amended by L. 1913, chs. 147, 508; L. 1914, ch. 92; L. 1916, ch. 521; L. 1920, ch. 552.

² Words "Onondaga, Oswego" new.

§ 2. In case the board of estimate and apportionment determine to assume the cost, or a part of the cost of such a proceeding, the comptroller of the city of New York is hereby authorized and empowered to repay and refund to the parties entitled thereto the sums paid for such additional and supplemental assessment upon property deemed to be benefited in such proceeding, or such proportions of the sums so paid for such assessments as the board of estimate and apportionment shall have determined to assume on behalf of the city of New York; and in case said board determine to assume only a part of such cost, said comptroller is hereby authorized and empowered to receive in full discharge of said assessments such proportion thereof as the board shall not have determined to assume.

Refund of assessments paid.

§ 3. This act shall take effect immediately.

CHAPTER 527

AN ACT to amend the conservation law, in relation to drainage.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five hundred and one of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act in relation to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as amended and renumbered by chapter four hundred and ninety-seven of the laws of nineteen hundred and twenty-one, is hereby renumbered section four hundred and ninety-four and amended to read as follows:

L. 1911, ch. 647, § 501, as renumbered and amended by L. 1921, ch. 497, renumbered § 494 and amended.

§ 494. **Operation, maintenance and expenses of drainage improvements.** The care, control, operation and maintenance of improvements provided for in this article¹ shall devolve upon the commission. The commission shall have power to charge to each such improvement undertaken by it such portion of the expenses so incurred as it shall determine ratably and equitably is chargeable thereto and to include the same in the apportionment or assessment of the cost and expenses of such improvement. Any person who shall open or close or cause to be opened or closed a gate or gates, or otherwise interfere with any dam, dike, ditch, pipe, sluice or channel constructed or improved under this article,² without the consent of the commission or an officer thereof, shall be guilty of a misdemeanor.

§ 2. Section five hundred³ of article eight-a of the said conservation law as re-enacted and amended by chapter one hundred

§ 500, as re-enacted and amended by L. 1920, ch. 180, amended.

¹ Words "eight and eight-a of this chapter and of improvements provided for by, and made under the authority of the drainage law," omitted.

² Word "article" substituted for word "chapter."

³ As added by L. 1918, ch. 445.

and eighty of the laws of nineteen hundred and twenty is hereby amended to read as follows:

§ 500. **Payment of damages; entry.** If after the expiration of thirty days proceedings have not been instituted to review the decision of the commission as provided in section four hundred and ninety-nine, the petitioner or petitioners shall pay the damages assessed by the commission and may thereafter at any time enter upon such lands or properties for the purpose of constructing, reconstructing, enlarging,⁴ cleaning or maintaining⁵ such drains, ditches and dykes. Deposit of the money to the credit of the owner or owners, pursuant to the direction of the commission, shall be deemed a payment within the provisions of this article.

Art. 33
added.

§ 3. The said conservation law is hereby further amended by adding a new article, to be article eight-B, to read as follows:

ARTICLE VIII-B.

MAINTENANCE AND ENLARGEMENT OF DITCHES CONSTRUCTED UNDER THE FORMER DRAINAGE LAW.

Section 501. Petition for repair or enlargement of ditches constructed under the former drainage law.

502. Proceedings.

503. Drainage fund.

§ 501. **Petition for repair or enlargement of ditches constructed under the former drainage law.** Whenever any ditch or channel constructed or completed pursuant to the former drainage law, being chapter fifteen of the consolidated laws, or any of its amendments, shall become wholly or in part filled up, and the passage of water therein impeded, or whenever such ditch or channel is not large enough for the purpose for which it was made, any one or more persons liable to be assessed for the repair or enlargement thereof, may present to the commission a petition, verified by at least one such petitioner in the manner provided for verifying a pleading under the civil practice act, setting forth the nature and locality of such needed repairs, or of the enlargement which may be necessary, and asking that such repairs or enlargement, as the case may be, be made.

§ 502. **Proceedings.** Upon receipt of the petition, the commission shall forthwith give notice to all persons liable to be assessed, as hereinafter provided, that it will examine said ditch or channel and at a time and place therein stated will hear all persons interested therein in respect to the necessity for its repair or enlargement. Such notice shall be signed by the secretary of the commission and served by publishing the same in two newspapers published in the county in which the ditch is located, or if the ditch be in more than one county, then in one newspaper published in each county in which said ditch is located, once a week in two successive weeks, the first publication to be at least fifteen days before such hearing. Said commission upon such day shall

⁴ Word "or" omitted.

⁵ Words "or maintaining" new.

hear all parties interested, desiring to be heard, and may take proof and testimony, and may adjourn from time to time for the purpose of continuing such hearing or making a determination.

Upon the receipt of the petition mentioned in section five hundred of this article, and within ten days thereafter, it shall be the duty of the commission to make or cause to be made an examination of the ditch or ditches mentioned in the said petition, and if upon such examination and after the hearing hereinbefore specified, it shall be of the opinion that the whole amount required to repair or enlarge such ditch or ditches shall not exceed the sum of two thousand dollars, it may proceed to make the said repairs or enlargement of the said ditch or ditches, and for that purpose may let the same by contract or may have the said work done by day's work under the supervision of the state engineer and surveyor, or under the supervision of some person to be designated and appointed by him. Such contracts shall provide that the obligations incurred thereunder shall be paid from assessments thereafter to be collected as provided by this act, and shall under no circumstances be an obligation of the state or any state officer. When the said repairs or enlargement shall be finished, it shall be the duty of the commission to make up an itemized account of the obligations incurred in making the said repairs or enlargement, and file the same in the town clerk's office or offices of the town or towns in which the said ditch or ditches are situated, and also in the office of the county clerk of the county or counties embracing the said town or towns. At the next meeting of the town board of the town for the audit of claims against the said town, it shall be the duty of the said board to allow the said obligations so incurred by the commission not exceeding the sum of two thousand dollars for any one ditch in any one town in any one year; and the same shall be certified with the other town audits of the said town to the board of supervisors of the county or counties in which the said town or towns are situated, and the expenses thereof shall be apportioned among the owners of any premises which were originally assessed, for the construction of the said ditch or ditches, according to the valuations thereof on the last assessment-roll, and the said tax shall be placed in the annual tax roll in a separate column opposite the name of the person assessed, which column shall be headed "Ditch Tax," and shall be collected by the collector with the annual state and county taxes against the said person or his property, in the same manner and at the same time that other taxes are levied and collected. And in case any town has contributed to the construction of the said ditch or ditches, the said town shall be liable for the said repairs or enlargement of the said ditch or ditches, in the same proportion that they were originally assessed for the construction of the same, which shall also be levied and collected out of the taxable inhabitants of said town, in the same manner that other town taxes are levied and collected. When the said ditch tax shall be so collected, it shall be paid over by the collector to the commission.

§ 503. **Drainage fund.** The comptroller shall designate a depository or depositories for receiving all moneys provided for the repair or enlargement of the ditches or channels specified in section five hundred and one of this article, and all other moneys received pursuant to this article. The fund thus created shall be known as "the drainage fund." Before any such deposit shall be received, by any such depository, such depository shall execute and file with the comptroller a bond in such penal sum, with such sureties and upon such conditions as shall be approved by the comptroller. The commission is hereby authorized and empowered to enlarge and repair such ditches or channels, in accordance with the procedure prescribed by this article and to pay the costs thereof from the drainage fund herein created. All moneys received by the commission pursuant to section five hundred and two of this article shall be deposited by the commission to the credit of such drainage fund. At the time of any such deposit, the commission shall send to the comptroller an original duplicate of the deposit slip, together with a statement of the amount and by whom paid. The moneys of the drainage fund shall be paid out only upon the check or draft of the commission, signed by the chairman of the commission and countersigned by the comptroller. The comptroller shall countersign such check or draft only when accompanied by vouchers executed by the commission on forms to be prescribed by the comptroller, and showing that the expenditure was made pursuant to the provisions of this article.

Inconsistent
acts.

§ 4. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 5. This act shall take effect immediately.

CHAPTER 528

AN ACT to provide for indexing and reindexing conveyances, mortgages and other instruments, relating to lands and liens thereon in the county of Nassau.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Instruments
to be re-
corded and
indexed.

Section 1. Every instrument affecting real estate or chattels, real, situate in the county of Nassau, which shall be recorded in the office of the county clerk of said county on and after the first day of July, nineteen hundred and twenty-three, shall be recorded and indexed pursuant to the provisions of this act.

Map of
county.

§ 2. Upon the passage of this act, the clerk of the county of Nassau is hereby authorized and directed to prepare a map of said county, on which shall be shown and delineated all the streets, avenues, roads, boulevards, parkways and water fronts of said county, and also all blocks or parcels of land bounded by said

streets, avenues, roads, boulevards, parkways and water fronts, subject, however, to the next following section. The word "block," as used in this act, designates a plot or parcel of land, such as is commonly so designated, wholly embraced within the continuous lines of streets, or streets and water-fronts taken together, where water forms one of the boundaries of a block, and such other parcels of land or lands under water as may be indicated upon said map by block numbers as constituting blocks.

"Block" defined.

§ 3. The said clerk of the county shall also cause said maps to be subdivided into convenient land sections, for the use to which said map is to be put, as by this act provided, and shall cause the division lines of said several sections to be exhibited on said map, and shall cause said sections to be numbered on said map from number one, consecutively, upward for as many sections as shall appear on said map.

Map to be divided into sections.

§ 4. The said clerk of the county shall also cause the blocks or parcels of land shown on said map to be numbered thereon, by block numbers, from number one, consecutively, upward.

Blocks to be numbered.

§ 5. For the purpose of notice under this act, each block shall be deemed to extend to the middle line of the streets, avenues, roads and boulevards, then or thereafter laid out on said land map fronting and adjoining such block, and shall also be deemed to extend to the exterior bulkhead line where water forms one of the boundaries of a block.

Boundaries of blocks.

§ 6. The said clerk of the county shall cause five copies of said map to be made, and shall certify the same under his hand, and shall file one copy of said map in his office, one in the office of the county treasurer and one in the office of each board of assessors and, upon said map being so certified and filed, it shall be and become a public record, and shall be known and designated as the land map of the county of Nassau.

Certified copies of map; where to be filed.

§ 7. Such number of any of the aforesaid maps as the board of supervisors may authorize and direct, not exceeding one thousand, shall be printed by the said clerk of the county for sale, at a price fixed by the said board of supervisors, and the proceeds of such sale shall be paid to the county treasurer, to the credit of the general fund for the reduction of taxation.

Public record.

Maps to be sold.

§ 8. The clerk of the county is hereby directed and required, immediately upon the completion and filing of said map in his office, to cause to be prepared one or more books for each of said sections for the indexing therein under the proper block numbers, of all instruments now required by law to be recorded in the books of conveyances. And said clerk shall also cause to be prepared one or more books for each of the said sections for the indexing therein under the proper block numbers of all instruments now required by law to be amended in the books of mortgages, and said clerk shall also cause to be prepared one or more books for each of said sections for the indexing therein under the proper block numbers of all instruments now required by law to be recorded in the books of notice of lis pendens, and such other books for the indexing therein under the proper block numbers

Indices of instruments for each section.

Contents;
how
entitled.

Public
records.

Satisfac-
tions, etc.,
of mort-
gages.

Instruments
referring
to instru-
ments.

Daily in-
dices and
books of
record.

Instruments
presented
for record
to have
block
number.

Instruments
to be in-
dorsed and
indexed.

of all other instruments now required by law to be recorded in his office. Said indices, when completed, shall be deposited in the office of the clerk of the county. They shall be prepared so as to contain the names of the parties to each instrument, its date, the date of the recording of the same, and the liber and page of the record thereof. The said books shall be entitled block indices of conveyances, mortgages and lis pendens respectively, and such other titles as the said clerk may designate, and shall indicate the sections and blocks to which they shall respectively relate, and the said books shall be public records. Whenever there shall be filed with the said clerk of the county, a satisfaction of any mortgage, which has been indexed as herein provided, the clerk shall forthwith enter upon the index of such mortgage, the date of the filing of the satisfaction of the same, and the liber and page of the record thereof. Whenever an assignment or release of a mortgage shall be recorded such assignment or release shall be noted upon the margin of the record of such mortgage with a reference to the liber and page of such assignment or release, and whenever any instrument shall be recorded correcting, amending or in any way referring to any previously recorded instrument, the same shall be noted in like manner on the margin of such previously recorded instruments.

§ 9. It shall be the duty of said clerk to provide and to keep in his office, besides said land map and block indices, books to be entitled, the daily index or tickler of conveyances, and the daily index or tickler of mortgages, together with books of record in which shall be recorded at length, conveyances and mortgages recorded in his office, each of which shall be indorsed with its proper liber number.

§ 10. Every instrument presented to said clerk for record and requiring to be indexed under this act after the date when this act shall go into operation, in order to entitle the same to be recorded, shall contain in the body thereof, or shall have indorsed thereon to be recorded therewith, a designation of the number of every block on the said land map in which the land affected by the instrument lies. Every assignment of a mortgage and every agreement respecting a mortgage, to entitle the same to be recorded, shall contain in the body thereof, or shall have indorsed thereon to be recorded therewith, a designation of the number of every block on the said land map in which the land lies which is affected by the mortgage to which such assignment or agreement relates. And the record of the instrument shall not be effectual by way of notice to bona fide purchasers or incumbrancers in respect of any land situated in any block not so designated, except as hereinafter provided in section sixteen of this act.

§ 11. Whenever any instrument affecting or relating to land in said county entitled to be recorded and required to be indexed under the provisions of this act shall be presented to said clerk for record, he will forthwith indorse the date, hour and minute of its receipt by him and enter in the proper index or tickler the names of every party executing the said instrument, the date of

the record thereof and the number of every block designated as aforesaid for the indexing of such instrument, and within ninety days thereafter shall cause the said instrument to be indexed in the proper book or books of block indices under the block number.

§ 12. In the certificate of said county clerk now required* be indorsed on instruments recorded by him, he shall certify, in addition to the other matters required by law to be stated therein, the number of every block on said land map under which the instrument has been indexed.

Certification of block numbers.

§ 13. The entries made in said indices, in conformity with the requirements of this act, shall for the purpose of notice be deemed and taken to be a part of the record of the instruments to which such entries respectively refer, and shall be notice to such subsequent purchasers or incumbrancers to the same extent and with like effect as the recording of such instruments in the office of said clerk now is or may be noticed.

Index entries part of record.

§ 14. Said clerk on or after the first day of July, nineteen hundred and twenty-three, shall keep in his office lexicographical indices containing lists of the names of all grantors and grantees of land, entered from time to time on the block index of conveyances in his office, referring after the names of such grantors and grantees to the date of record and the liber and page of the record of the instrument to which they are parties, and to the section and block affected by such instruments. He shall keep similar indices of mortgagors and mortgagees, but the indices herein provided for shall not be deemed to be a part of the record of the instrument to which they refer for the purpose of notice or otherwise. And the said clerk, after the first day of July, nineteen hundred and twenty-three, shall not be required to keep any other indices other than those provided for in this act.

Lexicographical indices.

Indices required to be kept.

§ 15. Whenever, after the making of said land map, any new or additional blocks of land shall be formed in said county by the opening or closing of any street, avenue, road, boulevard or parkway, or otherwise, it shall be the duty of the said clerk of the county to cause new maps of such new or additional blocks to be made, and such new or additional blocks to be numbered on said map, with block numbers following in consecutive order the highest block number on the maps or blocks indices immediately previous thereto, or by some other proper designation and to certify such new maps and file them in the same office as the previous land maps. On and after the first day of January next succeeding the making of any such new maps, the indices of all blocks theretofore existing comprising the land in the new blocks so formed as aforesaid shall, except for the purpose of completing the indexing belonging to the preceding year, be closed and discontinued, and a new index shall be opened for every such new block in the form herein prescribed, which new index shall thenceforth be used for all entries relating to land in such block. The date of closing shall be entered on the map previously in use, and at the end of every index on the

Additional blocks; maps and indices.

* So in original. [Word "to" evidently omitted.]

block indices so discontinued, with references to the number of every new block to be used in place thereof; and the date of opening shall be entered on the new maps so made and filed, and at the beginning of every such index, with references to the number of every block before in use for the land contained in such new block and on and after the said first day of January, said maps, so filed as aforesaid, shall constitute a part of the land map of said county and become public records, and the recording and indexing of instruments relating to land shown thereon shall be subject to the provisions of this act, as to the manner of indexing as hereinbefore provided, and the legal effect of such recording and indexing. The numbers and boundaries of blocks and sections shall not be changed except as is in this section provided. The said county clerk shall at least once in every ten years, or oftener, if in his discretion he may deem it necessary, cause to be made a new map of the county of Nassau, which said map shall be filed in his office, and shall take effect on the first day of January of the year next succeeding the year in which it is prepared. Said map shall be a copy of the land map of the county then on file, including all additions to and changes in said land map which have been previously filed, together with the additions or changes intended to be filed on the date of the filing of said new map, and shall thereafter be known as the land map of the county of Nassau and shall become a public record; and every provision of this section so far as the same may be applicable thereto shall apply to said new map with the same force and effect as though said map was prepared under the provisions of section two hereof. The land map previously in use shall remain on file for the purpose of reference.

New county maps.

Instruments recorded with erroneous designations.

§ 16. In cases where any instrument shall have been recorded without such designation as is required by section ten of this act, or with an erroneous designation, the said clerk of the county shall, on presentation of proper proof thereof, enter such instrument in the proper index under the proper block number of every block, the designation of which shall have been erroneously stated or omitted, and shall at the same time make a note of such entry and of the date thereof in every place in which such instrument may have been erroneously indexed, opposite the entry thereof, and also upon the record of the instrument and upon the instrument itself, if the same be in his possession or produced to him for the purpose, and the record of such instrument shall be constructive notice as to property in any block not duly designated at the time of such record only from time to time when the same shall be properly indexed.

Correction of entries.

§ 17. No entry in any book or index in said clerk's office shall be erased so as to be illegible, but in case of any correction the same shall be made without destroying the original by drawing a line through such original entry, and in all such cases the date of such correction, attested by the signature of the county clerk or his deputy, shall be entered upon the same page upon which such correction is made, on the margin, opposite such correction.

§ 18. Any person presenting to said county clerk an instrument for record under this act shall pay to said clerk, in addition to the fees now required by law for recording like instruments, the sum of twenty-five cents for each block under which such instrument is required to be indexed, and the sum of one dollar for each block shall be payable whenever an instrument already recorded is required to be reindexed under section sixteen of this act.

Clerk's fees.

§ 19. The provisions of this act shall not apply to the indexing of the general assignments, wills, powers of attorney, executory contracts for the sale or purchase of land or satisfaction of mortgages, except as in the next section provided; but such instruments shall be filed or recorded as now required by law, and when recorded they shall be indexed in separate alphabetical indices.

Not applicable to certain instruments.

§ 20. The said board of supervisors is hereby authorized, in its discretion, from time to time to determine the amounts of money not herein otherwise provided for which may be required to carry out the provisions of this act until the first day of January, nineteen hundred and twenty-three, and to appropriate said moneys therefor, and the moneys so appropriated shall be raised by the issue of bonds of the county of Nassau as by law provided.

Appropriation and bond issue authorized.

§ 21. No expenditure shall be made or obligation incurred under any provision of this act, unless otherwise herein specifically authorized and provided for, until an appropriation therefor shall have been made by the said board of estimate and apportionment, nor in excess of any such appropriation.

Expenditures and obligations limited.

§ 22. The clerk of the county shall cause to be prepared four sets of index books to be known respectively as grantor index and grantee index, mortgagor index and mortgagee index, in which shall be indexed all instruments heretofore recorded in his office in the books of records of deeds and mortgages, from the erection of said county to the time of commencement of the block index in this act provided for, and which indices shall be uniform with the lexicographical index hereinbefore required to be kept and shall be in such form as to the clerk of the county shall seem best suited to the needs of said county. The board of supervisors of Nassau county is hereby authorized and empowered to enter into a contract with a competent person or persons or corporation for making of the indices in this section provided to be made; subject, however, to the approval of said contract by the county clerk, the cost and expense thereof shall be paid as other county charges are required by law to be paid.

Indices of instruments heretofore recorded.

§ 23. Upon the completion of the said index books, so directed to be prepared, the said clerk shall cause to be reindexed therein subject to his direction, under the sections, blocks and block numbers shown on the land map of said county, and, so far as practicable, on the same general plan as entries are hereinbefore required to be made in the block indices in the office of said clerk, all conveyances, mortgages and other instruments which were recorded or filed in the office of said clerk, prior to the first day of July, nineteen hundred and twenty-three, except executory

Entries therein.

contracts for the sale of land, mortgages satisfied of record, satisfaction of mortgages, releases from mortgages which have been satisfied, and leases which by their terms have expired.

Reindexing
liens and
claims on
lands.

§ 24. The clerk of the county shall cause to be prepared suitable books for the reindexing therein of all statutory notices of liens and claims upon land which shall have been filed or recorded in the office of the said county clerk for such period prior to the passage of this act, as said county clerk shall determine, and said county clerk shall thereupon cause all such liens to be re-indexed in such books accordingly. The said county clerk shall, when possible, reindex said instruments and liens in this section mentioned upon the plan of block indexing herein provided for, and under the respective sections and blocks on the said land maps in which the land lies, affected by such liens and instruments. The index books, by this section directed to be prepared, shall be suitably indorsed and designated as block indices of re-indexed liens, the indorsements specifying the kind of liens re-indexed in each index book.

Reindexing
notices of
lis pendens.

§ 25. Notice of lis pendens shall be reindexed only against the name of the first plaintiff, and the name of the first defendant mentioned in the notice, except in partition suits the notice of lis pendens must be reindexed against the name of each plaintiff and of each defendant having any interest or estate in the premises, and in case of an action for the foreclosure of a mortgage if it shall appear by an index of such mortgage, or on the margin thereof, that such mortgage has been satisfied and discharged of record, or such action has been discontinued without judgment, then in any such case the notice of the pendency of such action which may have been filed shall not be reindexed under the provisions of this act, and no lien shall be reindexed which appears to have been satisfied and discharged by an entry to that effect on the margin of the present index, or of the record of the instrument, or by other record evidence brought to the notice of said county clerk, except that the county clerk may, in his discretion, reindex any or all of said notices or liens, if he deems it necessary so to do. In cases in which mortgages have been foreclosed and decrees of foreclosure have been entered, said clerk may, in his discretion, enter on the margin of the record of the mortgage foreclosed the fact of such foreclosure and the date of the decree.

Entry of
mortgage
foreclos-
ures.

County
clerk to use
discretion
in certain
cases.

§ 26. If, in the opinion of such county clerk, it shall, in particular cases, be impracticable by reason of the uncertainty of descriptions or otherwise, or if it shall appear to him, for any reason, not advisable to index or reindex some of the instruments and notices of liens by this act directed to be reindexed upon the plan hereinbefore mentioned with reference thereto, said county clerk may, in his discretion, in such cases, as to such instruments and notices, adopt and carry out another plan of indexing or re-indexing which he shall think best, in order to simplify reference to such instruments and notices, and their use as public records.

§ 27. Should the said county clerk think it expedient so to do, he may cause to be prepared nominal indices in lexicographical form of the parties to the instruments mentioned in this act, or to any of them, and of the owners of land against which liens have been filed and of judgment debtors whose names appear on record. The particular form of such lexicographical indices shall be such as said county clerk shall determine, and shall cover such periods and be brought down to such dates as he shall direct in respect to his own office.

Nominal
indices.

§ 28. Upon the completion of the indexing and reindexing directed by this act as to any instruments or liens hereinbefore mentioned, and when such indices shall be certified by said county clerk as having been prepared by him under the authority of this act, the same shall be deposited in the office of the county clerk, or such other place as shall be provided for them, for public use, and the same shall thereupon be public records.

Certification
and deposit
of indices.

§ 29. The said county clerk is also hereby directed to cause to be prepared, under his direction, suitable index books for the future indexing therein upon said block plan of indexing of all statutory notices of liens or claims on land other than lis pendens which may be filed or recorded in his office, on and after the first day of July, nineteen hundred and twenty-three. Such index books shall be known and designated as the block index of liens, and shall be ruled for entering therein the names of the lienor and of the owner of the property affected, the amount claimed to be due as shown by the notices, and the date of the satisfaction thereof, and said indices shall be of such other general form as said clerk may determine and each of said books indexed on the block plan shall contain entries relating only to the section of which the number and designation is indorsed in said book, and said indices shall be of such other general form as said county clerk may determine. In cases in which it is not practicable, in the opinion of said county clerk, to index some of the liens in this section mentioned, under said blocks, then the said county clerk may prepare such other form of indices as he shall think best. All such books shall be indorsed with their proper designation, and so as to show the liens to be indexed therein, the section and blocks on the land map of the said county to which they relate, and the periods of time covered by them, respectively.

Block index
of liens.

§ 30. For the purpose of carrying out all the various provisions of this act, the county clerk may employ an expert who shall act as superintendent, and such clerks and assistants and other expert persons as may in his judgment be required in his office, provided, however, that all of the expenses, including printing, stationery and material as may be necessary for the purposes of this act, and for carrying out all the provisions of this act, shall not in any event exceed the amount or amounts authorized by the said board of estimate and apportionment, or otherwise specifically provided for by this act, or other existing law.

Employ-
ment of
assistants.

Expenses
limited.

§ 31. The board of supervisors is hereby authorized to include in the final estimate of the moneys to be raised by taxation in

Provision
for moneys
required.

said county for the year nineteen hundred and twenty-three, and the succeeding years if required, the amounts of money not otherwise provided for which may be required by said county clerk to carry out the provisions of this act and to appropriate said moneys therefor, and the county treasurer is authorized and directed to pay, out of the amounts so required and appropriated, the expenses authorized by this act, upon the requisition of the said county clerk for the amounts required in his office, and said board of supervisors is authorized to raise whatever money may be required, not otherwise provided for from time to time, by the issue of county bonds in such amounts, in such series and payable at such time as the board of supervisors may determine, bearing interest at a rate not to exceed five per centum and not to be sold at less than par, provided that the total amount of such bonds shall not exceed the amount actually appropriated or required to carry out the provisions of this act.

Inconsist-
ent acts.

§ 32. This act shall be deemed and taken to be a public and not a private act.

Inconsis-
tent acts.

§ 33. All acts and parts of acts, so far as the same are inconsistent with this present act, are hereby repealed.

§ 34. This act shall take effect immediately.

CHAPTER 529

AN ACT granting the consent of the state of New York to the occupation by the United States of a certain piece of land for light-house purposes in Raritan bay, New York, and ceding jurisdiction over same.

Became a law April 7, 1922, with the approval of the Governor. Passed by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Consent
given.

Section 1. The consent of the state of New York, in so far as it has power, is hereby given for the occupation by the United States of America, for the purpose of erecting a light, of all that tract, piece or parcel of land situated, lying and being in Raritan bay, New York, described as follows:

A circular plot one hundred feet in diameter, the center of the circular plot being located in latitude forty degrees, thirty-one minutes, twenty seconds north; longitude seventy-four degrees, seven minutes, fifty-six seconds west.

Jurisdiction
ceded.

§ 2. The jurisdiction of the state of New York in and over the above described site shall be and is hereby ceded to the United States subject to the restrictions hereinafter mentioned.

Right to
execute
process
retained.

§ 3. The said consent is given and the said jurisdiction ceded upon the express condition that the state of New York shall retain concurrent jurisdiction with the United States in and over the property so far as that all civil and criminal process which may issue under the laws and authority of the state of New York may be executed thereon in the same way and manner as if such consent and jurisdiction had not been given.

§ 4. The said property when occupied by the United States shall be and continue forever thereafter exonerated and discharged from all taxes, assessments and other charges which may be levied or imposed under the authority of this state, but the jurisdiction hereby ceded and the exemption from taxation hereby granted shall continue in respect to said property so long as the same shall remain the property of the United States and be used for public purposes and no longer.

Property
exempted
from tax-
ation, etc.

§ 5. This act shall take effect immediately.

CHAPTER 530

AN ACT to authorize the city of Olean to borrow money by the issue of bonds or loan certificates for the purpose of meeting temporary deficiencies.

Accepted by the City.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The common council of the city of Olean is hereby authorized and empowered, by resolution, to issue and sell bonds or loan certificates, payable in not more than eight equal annual installments, in the name, in behalf of, and upon the credit of said city, in an amount not exceeding twenty thousand dollars, for the purpose of paying all existing claims lawfully due and owing by said city, and also for the purpose of supplying and meeting all deficiencies now existing in the various funds of said city, and to provide sufficient funds to liquidate the necessary expenses of said city for the current fiscal year.

Issue of
bonds or
loan certifi-
cates au-
thorized.

§ 2. Said bonds or loan certificates shall be issued in the name and under the seal of said city; shall be signed by the mayor and the city clerk thereof; and the common council shall fix the date of issue of said bonds or loan certificates, and also the amount and denomination of each bond or loan certificate. They shall be payable in not more than eight equal annual installments, the longest term of any one of which shall not be more than eight years from the date of their issue, with interest payable semi-annually at a rate not exceeding six per centum per annum; and the principal and interest thereof shall be payable at the office of the city treasurer. They shall be known and designated as "deficiency bonds or deficiency loan certificates," and shall be in such form as the common council shall prescribe, and shall contain a recital that they are issued pursuant to and in conformity with the provisions of this act; and the city clerk of said city shall keep a record of the number of each of said bonds, its date, amount, rate of interest, when payable and the name of the purchaser thereof.

Bonds or
loan certifi-
cates; ex-
ecution, de-
nomination,
etc.

§ 3. Said common council shall sell and dispose of said bonds or loan certificates, or any part thereof, at not less than par value and accrued interest.

Sale.

Tax for
payment.

§ 4. While any bonds or loan certificates issued under this act shall remain unpaid, the common council shall annually raise by taxation an amount sufficient to pay the principal and interest of the bonds issued under this act payable in the then current fiscal year until the last bond issued by authority of this act shall be fully paid and retired.

§ 5. This act shall take effect immediately.

CHAPTER 531

AN ACT to amend the public lands law, in relation to sale of state lands to a railroad corporation.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 50,
§ 54, as
amended
by L. 1921,
ch. 418,
amended.

Section 1. Section fifty-four of chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," as last amended by chapter four hundred and eighteen of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

§ 54. **Sale to a railroad corporation, city or village.** The commissioners of the land office may sell and convey the right, title and interest of the state in and to any such lands or structures abandoned pursuant to the provisions of section fifty-three.

Any such lands, other than lands situated in first and second class cities, crossed by a railroad bridge and approaches, and a strip of land, not more than fifty feet in width on each side of such bridge, may be sold and conveyed by the commissioners of the land office to the owner of such railroad bridge for a nominal consideration, provided that the owner of such bridge has complied in all respects with the provisions of chapter one hundred and eighty of the laws of nineteen hundred and nine, by making payment to the state of the sum fixed by the canal board as the amount of money to be paid into the state treasury by the owner of such bridge as a condition precedent to the right to cross such abandoned canal lands by structures at grade or on embankment or to acquire title thereto. In order to entitle any railroad corporation to the benefits of this act it must file with the commissioners of the land office, within four months after the adoption of the resolution of abandonment, provided for by section fifty-three of this chapter, or, prior to August first, nineteen hundred and twenty-two,² if such resolution was heretofore adopted,³ a written notice of its intention to acquire title to such lands and file with

¹ Previously added by L. 1916, ch. 299, and amended by L. 1920, ch. 810.

² Words "prior to August first, nineteen hundred and twenty-two," new.

³ Words "within six months after this act becomes a law," omitted.

the commissioners of the land office within six months of the issuance thereof ' a certificate of the secretary of the canal board evidencing its compliance with the provisions of chapter one hundred and eighty of the laws of nineteen hundred and nine, as hereinbefore provided for.

If any such lands or structures, not sold or conveyed to a railroad corporation as hereinbefore provided for, and which have been appraised in accordance with the provisions of this article, are situated within the limits of a city or incorporated village, and their use in whole or in part is desired by the city or incorporated village wherein they are situated, the commissioners of the land office may sell such lands or structures, in whole or in part, to such city or incorporated village at the appraised value thereof on such terms as may seem advantageous to the state, provided such city or village files with the commissioners of the land office, within four months after the adoption of the resolution of abandonment provided for in section fifty-three of this chapter, a written notice of its intention to purchase the whole or a part of such lands or structures; and any city or incorporated village so filing such notice shall be first entitled to purchase either the whole or a part of such lands or structures as may be indicated by such notice, provided such purchase is made within the time and upon the terms as to payment of the purchase price fixed by the commissioners of the land office. Any such city or incorporated village is hereby authorized to acquire such lands or structures and to provide means of payment therefor. Any such city or incorporated village is hereby authorized to sell the whole or any part of such lands or structures at public or private sale upon such terms as may be deemed advantageous to such city or village, the provisions of any general, special or local law to the contrary notwithstanding.

§ 2. This act shall take effect immediately.

CHAPTER 532

AN ACT authorizing the superintendent of public works to extend and enlarge the existing state development of water power on and along the canal system of the state and providing for the utilization of the electric current generated therefrom in the operation of canal structures and otherwise, and making an appropriation therefor.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The superintendent of public works is hereby authorized and directed, as soon as may be practicable after the passage of this act, to continue, extend and enlarge the existing

Superintendent of public works directed to extend de-

* So in original. [Evidently should be "or."]

† Words "within six months of the issuance thereof," new.

development
of water
power on
canal
system.

plan and system of developing water power on the canal system of this state for the operation of canal structures, with such alterations or additions as may be necessary, to the end that all canal structures, not so supplied and served, may be furnished from such state canal development the electric current and energy that may be necessary for their operation, heating and lighting. In order to effect the purposes of this act, the superintendent of public works is hereby authorized and directed to enter upon, control and utilize such waters of the canal system as may be so utilized and developed without detriment to the canal navigation of the state, and as are not by due authority of law possessed by outside agencies; to develop water power therefrom and to generate and develop from such water power electric current, power and energy for use in the operation, heating and lighting of the locks, bridges and other structures belonging to the state on and along the canals or conveniently adjacent thereto.

Determina-
tion of ad-
ditional
points on
canal sys-
tem; ap-
proval of
plans.

§ 2. The superintendent of public works shall determine and select the additional point or points on and along the canal system at which, in his opinion, water power may be developed without detriment to the navigation of the canals; but, before beginning any construction work or taking any action toward the development of water power or electric energy at any point or points, he shall submit the plans and specifications therefor to the water power commission created by chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, for its approval. Such plans and specifications shall show the nature and extent of the proposed development, and estimates of the cost. If such commission shall determine, after a public hearing upon notice, that such plans and specifications are adapted to properly develop the water power at the point or points selected by the superintendent of public works, and that the probable benefits to the state will justify the cost, and not otherwise, it shall approve the same. Such approval shall not be limited as to duration, but may be revoked or modified by act of the legislature, subject to contract rights then existing, if any, entered into pursuant to this act, for the sale of electrical current or energy. The superintendent of public works, notwithstanding any other provision of this act, shall not begin any construction work, acquire any property or take any action toward the development of water power or hydro-electric power at any point or points, other than the making of surveys and the preparation of maps, plans, specifications and estimates, without having obtained such approval. If such approval be granted, the superintendent of public works may proceed with the development of water power in accordance with such plans and specifications and may purchase, lease, construct or otherwise acquire power plants for the development of electric current and energy from such water power and may construct, acquire or lease such tunnels, flumes, conduits, dams, intakes, raceways, power canals or other devices that may be necessary for the flowage, storage and utilization of water for the generation of electric current; and, sub-

Duties and
powers of
superin-
tendent of
public
works.

ject to the provisions of this act, may construct transmission lines and distributing systems for the transmission and distribution of power, electric current or energy to and from state structures, and may construct any and all buildings, structures, plants, power stations and devices whatsoever required, together with all fixtures, furnishings, machinery, appliances, apparatus and equipment whatsoever appurtenant and necessary to the development of water power and the generation of electric current and energy from the canal waters.

§ 3. Whenever in his judgment the development of water power at any point on the canals so requires, the superintendent of public works in the name and on behalf of the state shall have, possess and exercise the rights and power of acquiring the fee of real estate and rights, interests and easements therein, including riparian rights, water and water rights not specifically exempt from the provisions of this act, and such other property subject to condemnation which he may deem essential or appropriate to the carrying out of the provisions of this act, by the condemnation thereof, under the right and power of eminent domain by proceedings under the condemnation law, provided, however, that property to be taken by condemnation under this section shall not include any water power that is actually owned by outside agencies and has been materially developed and power therefrom is available for sale to the public at the time the condemnation proceeding is begun. Nothing herein contained shall be construed as prohibiting or preventing the acquisition by the superintendent of public works, on behalf of the state, of any water power plant or materially developed water power site under agreement entered into by the superintendent of public works with the owner or owners thereof in the same manner as provided in the next section for the making of agreements with owners of property taken and appropriated for the purposes of this act, but existing permits relative to the use of canal waters shall not be affected by this act but such permits shall continue in force until formally revoked and terminated by the superintendent of public works in accordance with their respective provisions.

Acquisition
of property
and rights.

§ 4. The superintendent of public works shall have authority to enter upon and take possession of any lands, structures or waters, the acquisition of which in his judgment shall be necessary for the purposes of this act.

Authority
to enter
upon and
take pos-
session of
property;
description,
notice to
owner.

An accurate survey and map and description of such lands, structures or property, or the amount to be taken or acquired shall be made by the state engineer and surveyor on his request. The superintendent of public works shall endorse on such description a certificate stating that the lands, structures, or waters, or property described therein are necessary for and have been acquired by the state pursuant to the provisions of this act. Such description and certificate shall be filed in his office and a copy thereof certified by him shall thereupon be served upon the owner, together with a notice of the filing and the date of filing such description and such certificate in the office of the superintendent

of public works; and from the time of such service, the entry upon and appropriation by the state of the property described in said notice for the use and purposes above specified shall be deemed complete and thereupon such property shall be deemed to be the property of the state. Such notice shall be conclusive evidence of an entry and appropriation by the state, but the service thereof shall raise no presumption that the lands and rights therein mapped or described are private property. A duplicate of such notice and affidavit of due service thereof on such owner shall be recorded in the record of deeds and conveyances in the office of the clerk of any county where any of the property described therein may be situated, and the record of such notice and of such proof of service shall be evidence of the due service thereof. The superintendent of public works, upon the presentation by such owner of verified inventories showing the value of such property, may, subject to the approval of the governor, enter into an agreement with the owner of any lands, water or other property so taken and appropriated, for the value thereof, and as to the amount of any damage resulting from the appropriation for which the state shall be legally liable. If such agreement shall be made, and approved by the governor, the superintendent of public works shall deliver to the owner a certificate stating the amount due to him on account of such appropriation, and a duplicate of such certificate shall be delivered to the comptroller. The amount so agreed upon shall be paid by the treasurer upon the warrant of the comptroller, after title to said property has been certified by the attorney-general of the state, upon an abstract to be furnished by said claimant which shall show a good title to said property so appropriated by the state in said claimant, free from all incumbrances, dower right or liens of any name or character. If the superintendent of public works is unable to agree with the owner upon the value of any property so taken or appropriated, or on the amount of damages resulting therefrom, such owner, within two years after the service upon him of the notice of appropriation, as above specified, may present to the court of claims a claim for the value of such property so appropriated and any damages resulting therefrom for which the state shall be legally liable. The court of claims shall have jurisdiction to hear and determine such claims and make an award thereon. Any final award made upon such claim so filed against the state shall be paid in the manner provided by law, by the comptroller, for the payment of awards made by the courts of claims. When damages are awarded and it appears that there is any lien or incumbrance on the property appropriated, the comptroller may deposit the amount awarded in any bank in which moneys belonging to such fund may be deposited, to the account of such award, to be paid and distributed to the persons entitled to the same as ordered by the supreme court. Whenever any lands or waters or any use thereof is necessary for the carrying out of any improvement or works herein provided for, and the same are in possession of, or being used by, any person or corporation under any privilege hereto-

Agreement
with owner
as to value.

Jurisdiction
of court of
claims on
failure to
agree.

Distribution
of award.

Revocation
of privi-
leges heretofore
granted.

fore granted by the state, by the canal commissioners, the canal board, the superintendent of public works or otherwise, and which is revocable by the state by revocation, cancellation or annulment of any lease or permit or otherwise, or where said lands or use are so held under a term which has expired, the superintendent of public works shall have power to revoke such privilege on behalf of the state, or the department, board or official issuing the same and to re-enter said lands and no damages shall be awarded against the state on account thereof.

The superintendent of public works also is authorized to appropriate, take possession of, use, improve and control, for the purposes of this act, any of the lands belonging to the state for canal purposes and also any and all lands under the jurisdiction of the commissioners of the land office when said commissioners of the land office shall consent thereto, provided, however, in the latter case he shall make and file with the commissioners of the land office his certificate that such unappropriated state lands are suitable for carrying out the purposes of this act, and, in his judgment, essential to the fulfillment thereof.

Authority to use lands belonging to state.

§ 5. When the necessary site or sites are in the possession of or under the control or jurisdiction of the superintendent of public works, he may build, construct, erect and excavate in, upon, through or under said lands, structures, easements and interests, and maintain and operate any and all suitable piers, dams, canals, channels, conduits and raceways for the conducting, flowing, securing and fall of, storing and utilizing of water for power purposes, and also to build, construct and erect any and all buildings, structures, works, plants and power stations, and to furnish and equip the same with all necessary fixtures, machinery, appliances and apparatus of whatsoever kind necessary for the complete operation thereof, together with the extension, improvement, enlargement or modification of any existing state water power development plant; and also to build, construct and erect any and all transmission lines which he may deem essential or appropriate for the generation, development and utilization of water power, and for the generation, development, storage, utilization, transforming and transmission of electric current and energy therefrom.

General powers of superintendent of public works.

§ 6. The superintendent of public works also shall have power to transform and transmit such electric power and energy on, over, through, along, under or across any lands or premises, streets, avenues, alleys, highways, canals, rivers, water courses, bridges, viaducts, railways and public places, to any state structure or building at which such electric power and energy is proposed to be used or consumed.

Power to transmit electric power.

§ 7. The superintendent of public works is authorized to construct, maintain and operate in conjunction with any line which may be erected or used by him for the transmission of electric current and energy, conduits, cables and wires for the transmission of messages on or along the canal system of the state, together with the necessary cross-arms, fixtures and other necessary

Power to erect and maintain wires, etc. for transmission of messages.

devices and apparatus, and may install in any or all of the state structures on or along the canal system and conveniently adjacent thereto, wires, receivers, transmitters and other devices and apparatus of whatever kind that may be necessary, to the end that there may be provided a full and complete system and means of communication to be used in the administration and management of the canals and the transaction of state business thereon.

Work how
to be done.

Advertising
work to be
done by
contract.

§ 8. The work herein authorized shall be done by contract or by department forces, whichever method in the judgment of the superintendent of public works may be deemed best for the interests of the state. So far as may be practicable, all work shall be done in accordance with plans and specifications prepared by the state engineer and surveyor and approved by the superintendent of public works. In case of work to be done by contract, the plans and specifications therefor shall be exhibited to every person proposing or desiring to make a proposal. Such part of the work as shall be done by contract shall be advertised for a period not less than ten days in the state paper, and in a newspaper located in the county in which the particular piece of work advertised, or some portion of the same, is located.

Proposals.

Bids may
be rejected.

Contracts
may be
canceled.

The advertisement shall be limited to a brief description of the work proposed to be let with an announcement stating where the maps, plans and specifications are on exhibition and the terms and conditions, to be specified by the superintendent of public works, under which bids will be received and the time and place where the same will be opened, and such other matters as may be necessary to carry out the provisions of this act. All proposals received pursuant to said advertisement shall be publicly opened and read at the time and place designated. Every proposal must be accompanied by a money deposit in the form of a draft or certified check payable to the order of the superintendent of public works for five per centum of the amount of the proposal. In case the proposer to whom such contract shall be awarded shall fail or refuse to enter into a contract within the time fixed by the superintendent of public works, such deposit shall be forfeited to the state and paid into the state treasury. In case the contract be made, such deposit shall be returned to the contractor. The superintendent of public works may reject any and all bids and may re-advertise and award the contract in the manner herein provided whenever in his judgment the interests of the state will be enhanced thereby. If in the judgment of the superintendent of public works the work upon any contract is not being performed according to the contract or for the best interests of the state he shall have power to suspend or stop the work under such contract and complete the same in such manner as will accord with the contract specifications and be for the best interests of the state or he may cancel the contract and readvertise and re-let it in the manner above described and any excess in the cost of completing the contract beyond the price for which the same was originally awarded shall be charged to and paid by the contractor failing to perform

the work. Every contract shall reserve to the superintendent of public works the right to suspend or cancel the contract, as above provided, and to complete the same or re-advertise and re-let the same as he may determine, and also shall reserve to the superintendent of public works the right to enter upon and complete any item of the contract which shall exceed in quantity the estimate by more than fifteen per centum or to make a special contract for such excess as he may determine.

§ 9. Upon request of the superintendent of public works the state engineer and surveyor shall make and prepare and furnish to him such estimates, surveys, plans and specifications as the superintendent of public works may require in carrying out the provisions of this act, and in addition the state engineer and surveyor shall render such engineering assistance during the progress of the development and improvement as the superintendent of public works shall require from time to time.

Duties of
state
engineer.

§ 10. In the event that a surplus in the amount of electric current generated under the provisions of this act shall exist over and above the needs and requirements of the canal system or of state structures located adjacent to the canal, the superintendent of public works may duly advertise such surplus electric current for sale to the highest bidder therefor. The advertisement inviting proposals for the same shall be published for ten successive days in the state paper and in a newspaper issued in the county in which the most convenient or practicable point for the delivery of such surplus electric current is located, and shall set forth the time and place at which all proposals shall be received and opened. Such advertisement shall contain a brief description of the point or place of proposed delivery of such surplus electric current, and a statement of the approximate amount reserved for the use of the state while the contract is in force and the approximate amount offered for sale and the terms and conditions, to be specified by the superintendent of public works, which shall govern the bidding. All proposals received pursuant to such advertisement shall be publicly opened and read at the time and place designated. Every proposal must be accompanied by a money deposit in the form of a draft or certified check, payable to the order of the superintendent of public works for five per centum of the amount of the proposal computed on the basis of the delivery of such electric current for one year. In case the proposer whose proposal is accepted shall fail or refuse to enter into a contract within the time fixed by the superintendent of public works, such deposit shall be forfeited to the state and paid into the state treasury. In case the contract be made, such deposit shall be returned to the successful proposer. The superintendent of public works may reject any or all proposals and he may readvertise and sell such surplus current in the manner herein provided whenever in his judgment the interests of the state will be enhanced thereby. The contract to be entered into by the successful bidder shall contain such conditions as in the judgment of the superintendent of public works shall be necessary to protect the interests of the state. No

Sale of
surplus
electric
current.

Advertising
for pro-
posals.

Proposals.

Contracts.

contract for the sale of such surplus electric current shall cover a period in excess of five years, and every such contract shall provide that nonpayment of the consideration therefor within thirty days after the same shall have become due shall be sufficient grounds for the discontinuance of the delivery of the current contracted for or for the cancellation of such contract. Nothing herein contained shall be taken or construed as authorizing the superintendent of public works to construct any transmission line or other structure on land not owned by the state or which has not been acquired under the provisions of this act, for the delivery of surplus electric current to the purchaser thereof, but each such purchaser as a condition of the delivery of electric current to him shall, at his own cost and expense, construct and maintain such transmission line or other structure or device as may be necessary to receive the electric current delivered or to be delivered to him from the state transmission line or busbar. No person, association of persons or corporation shall distribute or sell any such surplus electric current developed pursuant to this chapter for any purpose, other than municipal purposes in case of a municipality, in competition with an existing public utility, unless such person, association of persons or corporation first secures a certificate of convenience and necessity from the public service commission.

Transmission lines.

Competition with existing public utility.

Waters to which act applicable.

Rights reserved.

Inconsistent acts repealed.

§ 11. The provisions of this act shall apply to, and the waters to be developed thereunder shall consist only of, those waters and structures which are now or hereafter may be used as part of the canal system or which under existing agreement are subject to such use, or which may be acquired under the provisions of this act; and nothing in this act shall be construed as impairing any right of eminent domain under existing laws or any existing right of diversion and use of waters lawfully acquired.

§ 12. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, including subdivision ten of section fifteen of the canal law, section four hundred of the conservation law, insofar as it conflicts with the provisions of this act; section sixteen of chapter one hundred and forty-seven of the laws of one thousand nine hundred and three, as added by chapter four hundred and ninety-four of the laws of one thousand nine hundred and seven, insofar as it conflicts with the provisions of this act; section four of chapter three hundred and ninety-one of the laws of one thousand nine hundred and nine, as amended by chapter seven hundred and thirty-six of the laws of one thousand nine hundred and eleven, insofar as it conflicts with the provisions of this act; and subdivision seven of section six hundred and ten, section six hundred and thirteen, section six hundred and fifteen, section six hundred and sixteen and section six hundred and eighteen of chapter five hundred and seventy-nine of the laws of nineteen hundred and twenty-one, insofar as their provisions conflict with the provisions of this act.

Appropriation for work at

§ 13. For the purpose of initiating the work under the general plan provided for by this act, the sum of one million dollars

(\$1,000,000), or so much thereof as may be necessary, is hereby appropriated out of the moneys in the treasury not otherwise appropriated, for the development and generation into electric energy of water power available at the structures known as the Crescent and Vischers Ferry dams located on the canalized Mohawk river between the city of Schenectady and the village of Waterford, and for the erection and installation of all structures, appurtenances and accessories necessary to secure the utilization for power purposes of such waters at said points, in accordance with the provisions of this act; the moneys hereby appropriated to be payable by the state treasurer on the warrant of the comptroller to the order of the superintendent of public works.

Crescent
and Visch-
ers Ferry
dams.

§ 14. This act shall take effect immediately.

CHAPTER 533

AN ACT to amend the highway law, in relation to fees for registration of motor cycles.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions four and six of section three hundred and two of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter seventy-two of the laws of nineteen hundred and sixteen and amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one, are hereby amended to read as follows:

L. 1909, ch. 30, § 302, subds. 4, 6, as added by L. 1916, ch. 72, and amended by L. 1921, ch. 530, amended.

4 Certificate of registration. Upon the filing of such application and the payment of the fee hereinafter provided, the tax commission shall assign to such motor cycle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the tax commission may select to the owner a certificate of registration, in such form as the tax commission may prescribe, and a number plate at a place within the state of New York named by the applicant in his application. In the event of the loss, mutilation or destruction of any certificate of registration or number plate, the owner of a registered motor cycle may obtain from the tax commission a duplicate thereof upon filing in the office of the tax commission an affidavit showing such fact and the payment of a fee of one dollar.¹

6. Registration fees. The following fees shall be paid to the tax commission upon the registration or reregistration of a motor cycle in accordance with the provisions of this article: Five dollars² upon the registration of any motor cycle of whatever

¹ Formerly "fifty cents."

² Formerly "Two dollars and fifty cents."

horse-power, provided that if a motor cycle is originally registered after July first in any year, the register fee for that year shall be one-half of the fee herein provided for. The provisions hereof with respect to the payment of registration fees shall not apply to motor cycles owned or controlled by the state, a city or county or any of the departments thereof, but in other respects shall be applicable.

In effect
July 1,
1922.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

CHAPTER 534

AN ACT to amend the highway law, in relation to motor trucks, trailers and omnibuses, and to powers of the state commissioner of highways.¹

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 30,
§ 282a, as
added by
L. 1918,
ch. 633,
and
amended by
L. 1921,
ch. 638,
amended.

Section 1. Section two hundred and eighty-two-a of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," as added by chapter five hundred and thirty-three of the laws of nineteen hundred and eighteen and last amended by chapter six hundred and thirty-eight of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

§ 282-a. **Motor trucks and trailers; dimensions and weights.**

No person, without written permission of the state commissioner of highways shall operate or drive or cause to be operated or driven upon a public highway or bridge thereon, in any county not wholly included within a city, a motor truck or trailer having

1. A width of body, inclusive of load, of more than eight feet, or
2. A greater combined weight of truck and load, or of trailer and load, than twenty-eight thousand pounds in the case of a vehicle with four wheels, or
3. A greater weight than nine thousand eight hundred pounds on one wheel, or
4. The axles closer together than eight feet and the weight on one wheel more than five thousand six hundred pounds, or
5. More than seven hundred pounds pressure per inch width of tire on any one wheel.

The width of rubber tires, for the purposes of this section, shall be ascertained by measuring width of the tire base channel or between the flanges of the metal rim, except pneumatic tires, the width of which shall be determined by measuring the greatest width of the tire casing; provided that no motor truck or trailer shall be operated upon a public highway equipped with any rub-

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1920, ch. 189.

ber tire which has at any point, less than one inch of rubber above or beyond the top of the metal flange or rim. The width of metal tires shall be determined by measuring the width of contact of the tire with the road surface. Notwithstanding the provisions of this section, racks for carrying empty barrels, baskets and boxes, and for carrying hay, straw and unthreshed grain, may have a width of not to exceed eight feet at the base of the rack and twelve feet at the top.

§ 2. Section two hundred and eighty-six of such chapter, as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten, is hereby amended by adding thereto, at the end thereof, a new subdivision, to be subdivision twelve, to read as follows:

Subd. 12
added to
§ 286, as
added by
L. 1910,
ch. 874.

12. A motor truck or motor omnibus, when driven or operated upon a public highway, shall be equipped with a mirror or other reflecting device so adjusted that the operator of such vehicle shall have a clear and full view of the road and condition of traffic behind such vehicle.

Mirrors.

§ 3. Such chapter is hereby amended by inserting therein, after section two hundred and eighty-six-a, a new section, to be section two hundred and eighty-six-b, to read as follows:

§ 286b
added.

§ 286-b. **Weights and capacity of motor truck to be displayed; loading.** No motor truck or tractor shall be used on a public highway or bridge unless there is legibly painted thereon, on the right side of the body or chassis or on the right side of the cab below the driver's seat, the following information:

Weight of vehicle pounds.

Manufacturers rated capacity pounds.

Gross weight pounds.

(the weight being inserted)

or in lieu thereof there may be a metal plate containing the same information placed in the same location.

If a metal plate is used, the letters and figures shall be legibly stamped thereon in letters not less than one-half an inch in height or if painted thereon in letters not less than one inch in height.

No person shall operate or drive a motor truck on a public highway or bridge on which the load exceeds the weight of the allowable load as shown by the sign on its side, or for which it is registered.

Violations of the provisions of this section relating to loading, shall constitute a misdemeanor punishable by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days, or both such fine and imprisonment, for the first offense; by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days, or both such fine and imprisonment, for the second offense; by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment for not more than one hundred and twenty days, or both such fine and imprisonment for the third or a subsequent offense; provided further, that for the third offense the registration of the motor truck shall be suspended

for a period of not less than thirty days and not more than six months. In each case of overloading found, the amount of the overload in excess of five per centum of the allowable load shall be unloaded on the side of road or at place where vehicle was weighed.

Violations of the provisions of this section relating to the displaying of signs with the required information legibly shown therein, or placing inaccurate statements therein, shall constitute a misdemeanor, punishable by a fine not exceeding twenty-five dollars, or imprisonment not exceeding ten days, or both such fine and imprisonment.

§ 287, as
added by
L. 1910,
ch. 374,
amended.

§ 4. Section two hundred and eighty-seven of such chapter, as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten, is hereby amended to read as follows:

§ 287. **Speed permitted.** 1. Every person operating a motor vehicle upon a public highway shall drive such vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person.

2. A rate of speed, by a motor vehicle other than a motor truck, in excess of thirty miles an hour for a distance of one-fourth of a mile, shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

3. Except as hereinafter provided, a rate of speed by a motor truck of two tons capacity or under in excess of twenty miles an hour shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

4. Except as hereinafter provided, a rate of speed by a motor truck of over two tons capacity in excess of fifteen miles an hour shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

5. A motor truck equipped with pneumatic tires may be driven at a rate of speed of five miles an hour in excess of the rate of speed specified in subdivisions three or four, for a truck of the same capacity, before such rate of speed shall be presumptive evidence of driving at a rate of speed which is not careful and prudent.

§ 290,
subd. 1, as
added by
L. 1910,
ch. 374,
and
amended by
L. 1921,
ch. 85,
amended.
Penalties.

§ 5. Subdivision one of section two hundred and ninety of such chapter, as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten, such subdivision having been last amended by chapter eighty-five of the laws of nineteen hundred and twenty-one,^{*} is hereby amended to read as follows:

1. The violation of any of the provisions of sections two hundred and eighty-two, two hundred and eighty-three, two hundred and eighty-four, two hundred and eighty-four-a, two hundred and eighty-six and two hundred and eighty-nine of this article shall constitute a misdemeanor punishable by a fine not exceeding fifty dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment, except as herein otherwise provided.

^{*} Previously amended by L. 1917, chs. 174, 769; L. 1918, ch. 549.

§ 6. Section two hundred and ninety of such chapter, as added by chapter three hundred and seventy-four of the laws of nineteen hundred and ten, is hereby amended by inserting therein, after subdivision one, a new subdivision, to be subdivision one-a thereof, to read as follows:

Subd. 1a
added to
§ 290, as
added by
L. 1910,
ch. 274.

1-a. The violation of section two hundred and eighty-two-a, of this article, in respect of the provisions of subdivision one of such section shall constitute a misdemeanor punishable by a fine not exceeding one hundred dollars or by imprisonment for not exceeding thirty days, or both such fine and imprisonment. The violation of section two hundred and eighty-two-a, of this article, in respect of the provisions of subdivisions two, three, four or five of such section shall constitute a misdemeanor punishable by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days, or both such fine and imprisonment, for the first offense; by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days, or both such fine and imprisonment, for the second offense; by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment for not more than one hundred and twenty days, or both such fine and imprisonment, for the third or a subsequent offense; provided further that for the third offense, in respect of any or all of such subdivisions two, three, four or five the registration of the motor truck shall be suspended for a period of not less than thirty days and not more than six months.

Penalties.

§ 7. Section two hundred and ninety-four of such chapter, as added by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 294, as
added by
L. 1921,
ch. 580,
amended.

§ 294. **Delegation of powers to director of motor vehicle bureau.** The tax commission may delegate any of its powers or duties under this article or under article eleven-a, except the power to appoint motor vehicle inspectors under the provisions of section two hundred and ninety-five, to the deputy commissioner in charge of the motor vehicle bureau, who shall be known and designated as "director of the motor vehicle bureau."

§ 8. Such chapter is hereby amended by adding thereto at the end of article eleven a new section, to be section two hundred and ninety-five, to read as follows:

§ 295
added.

§ 295. **Inspection of motor vehicles.** The state commissioner of highways shall cause inspections to be made of the motor vehicles operating on the public highways to detect overloading, inadequacy of equipment required by law and other violations of law governing the use of the public highways by motor vehicles. For such purpose the superintendent of the state police when requested by the state commission of highways shall make such inspection and enforce the provisions of this section.

§ 9. This act shall take effect immediately.

CHAPTER 535

AN ACT to amend the highway law, in relation to the registration fees for motor vehicles.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 30,
§ 282,
subd. 6, as
amended by
L. 1921,
ch. 580,
amended.

Section 1. Subdivision six of section two hundred and eighty-two of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," such section having been last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:²

6. Registration fees. The following fees shall be paid to the tax commission upon the registration or reregistration of a motor vehicle in accordance with the provisions of this article: if such motor vehicle, fully equipped, weighs thirty-five hundred pounds or less, fifty cents for each one hundred pounds, or major fraction thereof; if such motor vehicle, fully equipped, weighs more than thirty-five hundred pounds, seventy-five cents for each one hundred pounds, or major fraction thereof; provided, however, that the total fees at any time for the registration or reregistration of a six, eight or twelve cylinder motor vehicle shall be not less than ten dollars, and for the registration or reregistration of any other motor vehicle shall be not less than eight dollars; provided further, that if a motor vehicle is originally registered after July first in any year, the register fee for that year shall be one-half of the fee herein provided for; and further provided that for motor vehicles which are used or to be used for purposes mentioned in subdivision six-a of this section, the fee for such registration shall be as therein prescribed. The manufacturer's weight of motor vehicles shall be accepted as the weight for the purpose of registration hereunder. The provisions hereof with respect to the payment of registration fees shall not apply to motor vehicles owned or controlled by the state, a city, county, village or town or any of the departments thereof, but in other respects shall be applicable.

In effect
Jan. 1,
1923;
exception.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three, except that the registration fees provided herein may be paid prior to such date for the year beginning January first, nineteen hundred and twenty-three.

¹ Added by L. 1910, ch. 374, and previously amended by L. 1911, ch. 491; L. 1915, ch. 346; L. 1917, ch. 2; L. 1918, ch. 47; L. 1919, ch. 622; L. 1920, ch. 96.

² Subd. 6 materially amended.

CHAPTER 536

AN ACT to amend the highway law, in relation to registration fees for motor trucks.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. That part of subdivision six-a of section two hundred and eighty-two of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," which constitutes the schedule of fees for auto trucks, as last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:²

L. 1909, ch. 30, § 222, subd. 6a, schedule for auto trucks, as amended by L. 1921, ch. 580, amended.

SCHEDULE FOR MOTOR VEHICLES, COMMONLY KNOWN AS AUTO TRUCKS OR LIGHT DELIVERY CARS, USED FOR THE TRANSPORTATION OF GOODS, WARES AND MERCHANDISE.

For each such vehicle having a combined weight of truck and carrying capacity of two tons or less, the annual fee of sixteen dollars.

For each such vehicle having a combined weight of truck and carrying capacity of more than two tons, the annual fee of eight dollars for each ton or fractional part thereof.

Provided that if any such motor vehicle, commonly known as a truck, used for the transportation of goods, wares and merchandise and for which a fee is herein provided, is originally registered after July first in any year, the register fee for that year shall be one-half the fee herein provided for such motor vehicle.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three, except that the registration fees provided herein may be paid prior to such date for the year beginning January first, nineteen hundred and twenty-three.

In effect Jan. 1, 1923; exception.

CHAPTER 537

AN ACT to amend the highway law, in relation to lights with which motor vehicles shall be equipped.

Became a law April 7, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section two hundred and eighty-six of chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter

L. 1909, ch. 30, § 286, subd. 2, as amended by L. 1921, ch. 580, amended.

¹As added by L. 1916, ch. 598, and amended by L. 1917, chs. 2, 724; L. 1920, chs. 683, 687.

²Schedule materially amended.

twenty-five of the consolidated laws," as last amended by chapter five hundred and eighty of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

Lights.

2. Every motor vehicle, driven or operated upon the public highways of the state during the period from one-half hour after sunset to one-half hour before sunrise, shall display when running at least two lighted lamps on the front, one on each side of ² equal power, not exceeding twenty-one ³ candle power, the use of which on motor vehicles has been approved by the state tax commission, as provided in subdivision four of this section,⁴ and one lighted lamp on the rear of such vehicle, which shall also display a red light visible from the rear. The rays of such rear light shall shine upon the number plate carried on the rear of such vehicle in such manner as to render the numerals thereon legible for at least fifty feet in the direction from which the vehicle is proceeding. The front lamps when lighted by electricity⁵ shall be so arranged, adjusted and operated, as to avoid dangerous glare or dazzle, and so that no dangerous or dazzling light projected to the left of the axis of the vehicle when measured seventy-five feet or more ahead of the lamps, shall rise above forty-two inches of the level surface on which the vehicle stands. They shall also give sufficient side illumination to reveal any person, vehicle or substantial object ten feet to both sides of such vehicle, at a point ten feet ahead of the lamps. If, in addition to headlights, any such motor vehicle is equipped with any auxiliary light, projecting device or devices, other than the rear light, such auxiliary lights shall be subject to all the restrictions of this section.

§ 286,
subd. 2
amended.
Front
lights.

§ 2. Subdivision three of section two hundred and eighty-six⁶ of such chapter is hereby amended to read as follows:

3. ⁷All front lights shall be visible at least two hundred and fifty feet in the direction in which the motor vehicle is proceeding, and, when the vehicle is proceeding on a street or highway not so lighted as to reveal any person, vehicle or substantial object on such street or highway straight ahead of such motor vehicle for a distance of at least two hundred feet, such front lights shall be sufficient to reveal any person, vehicle or substantial object on the road straight ahead of such motor vehicle for a distance of at least two hundred feet. ⁸The front lamps when lighted otherwise than by electricity shall be so

¹ As added by L. 1910, ch. 374, and amended by L. 1918, ch. 540; L. 1921, ch. 580.

² Word "approximately" omitted.

³ Formerly "twenty-four."

⁴ Words "the use of which on motor vehicles has been approved by the state tax commission, as provided in subdivision four of this section," new.

⁵ Words "lamps when lighted by electricity" substituted for word "lights."

⁶ As added by L. 1910, ch. 374, and amended by L. 1918, ch. 540; L. 1921, ch. 580.

⁷ Words "Except as otherwise provided in this section, such," omitted. Word "All" new.

⁸ Following sentence new. Sentence omitted which read: "This subdivision shall not apply to the motor trucks described in subdivision four of this section."

arranged, adjusted and operated as to avoid dangerous glare or dazzle, and shall also comply substantially with all the provisions of this subdivision with respect to electric lights and shall likewise be subject to the approval of the state tax commission as provided in subdivision four of this section.

§ 3. Subdivision four of section two hundred and eighty-six^o of such chapter is hereby repealed, and a new subdivision of said section two hundred and eighty-six of such chapter, to be known as subdivision four, is hereby added, to read as follows:

4. No head lamp shall be used upon any motor vehicle operated upon the public highways of this state unless such lamp is equipped with a lens or other device approved by the state tax commission, designed to prevent glaring rays. Every such lens or other device shall be applied and adjusted in accordance with the requirements of the certificate approving the use thereof. Every reflector which is used as a part of such head lamp shall have a polished silver or glass reflecting surface and shall be substantially free from dents, rust and other imperfections. If the motor vehicle is equipped with acetylene or gas head lamps clear, plane glass may be used subject to the approval of the tax commission as to burners, reflectors and other equipment and conditions necessary to comply with the requirements of subdivisions two and three of this section. The operator of every motor vehicle shall permit any police officer or motor vehicle inspector, examiner or other person exercising police powers to inspect the head lighting equipment of such motor vehicle, and to make such tests as may be necessary to determine whether the provisions of subdivisions two and three of this section are being complied with.

Head lighting devices heretofore approved by the secretary of state or the state tax commission under the provisions of subdivision six of this section, or under this subdivision, may be used, when properly arranged, adjusted and operated upon motor vehicles in this state while such certificates of approval are in force. Any such certificate, however, heretofore or hereafter issued, may be revoked by the state tax commission after a hearing of which the person or corporation named therein, or his or its successor in interest, shall have been given reasonable notice and an opportunity to appear and be heard, upon the ground that the device does not comply with the provisions of subdivisions two, three and four of this section, and the rules and regulations of the tax commission and the decision of the tax commission revoking such certificate shall be final; such revocation, however, of a lens or other head lighting device heretofore or hereafter approved shall not take effect until six months after the decision of the tax commission revoking same.

The foregoing provisions governing lights on motor vehicles do not apply to so-called dimmers the use of which is permitted or required by local ordinances.

^oAs added by L. 1910, ch. 374.

§ 286,
subd. 4
repealed;
new subd. 4
added.

Lights.

The tax commission may make such rules and regulations relative to lights on motor vehicles and the approval of the same as are not inconsistent with the specific provisions of this act.

In effect
July 1,
1922.

§ 4. This act shall take effect July first, nineteen hundred and twenty-two.

CHAPTER 538

AN ACT to amend the civil practice act, in relation to guardian of infant or incompetent person.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 207
amended.

Section 1. Section two hundred and seven of the civil practice act is hereby amended to read as follows:

§ 207. **Guardian of infant or incompetent person without application.** The supreme court may appoint a guardian ad litem or special guardian for an infant or an incompetent person, at any stage in any action or proceeding, when it appears to the court necessary for the proper protection of the rights and interests of such infant or incompetent person and fix the fees and compensation of such guardian, except when it is otherwise expressly provided by law. ¹ Such fees and compensation shall be payable from the estate or fund, or from the interest of the ward therein, or from both, as the court may direct.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 539

AN ACT to amend the education law, in relation to providing a separate school budget in the city of Niagara Falls.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 2c
added to
L. 1909,
ch. 21
(revision of
L. 1910,
ch. 140),
§ 877, as
added by
L. 1917,
ch. 786.

Section 1. Chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended by inserting in section eight hundred and seventy-seven thereof, as added by chapter seven hundred and eighty-six of the laws of nineteen hundred and seventeen, a new subdivision, to be subdivision two-c, to read as follows:

¹ Remainder of section new.

2-c. In the city of Niagara Falls such estimate shall be filed with the clerk of the city council on or before March first and shall be known as the school budget, and the city council shall include the amount specified in such budget in a school tax and assessment roll, to be entirely separate and distinct from the annual tax and assessment roll, and the amount provided therein shall be collected as soon as possible after May first.

§ 2. This act shall take effect January first, nineteen hundred and twenty-three. In effect
Jan. 1,
1923.

CHAPTER 540

AN ACT to establish and maintain a water department in and for the city of Norwich.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Within thirty days after this act shall become a law, the mayor and the aldermen of the city of Norwich shall constitute a board of water commissioners, to be known as the Norwich water board. The commission so constituted and their successors in office are hereby created a body corporate by the name of the Norwich water board, and in that name may prosecute and defend actions and proceedings in any court. Board of
water com-
missioners.

§ 2. A majority of all the commissioners in office shall constitute a quorum for the transaction of business. The regular and special meetings of said board shall be held at the times and in the manner provided in the charter of the city of Norwich for the meetings of the common council. Quorum;
meetings.

The city chamberlain shall be the clerk and the treasurer of said board. He shall keep the records of said board and its proceedings and perform such other duties as said board may direct. He shall also, in addition to the salary allowed him as city chamberlain by the charter, receive such additional salary for his services as treasurer of the Norwich water board as shall be fixed by said board; and shall, before entering upon the duties of his office, file with the city clerk a bond to the city of Norwich, in addition to his bond as city chamberlain, in a penalty to be fixed by the common council, and with sureties to be approved by said council, conditioned for the faithful performance of his duties as such treasurer. The premiums on all surety company bonds furnished by the employees of said board shall be paid out of the treasury of said board. City cham-
berlain;
duties,
additional
salary,
bond.

The city attorney of the city of Norwich shall be counsel for said Norwich water board, and shall have charge of the legal business of said board, and in addition to his salary as city attorney shall be paid such additional compensation for his City attor-
ney; duties,
additional
salary.

services as counsel to said water board as may be fixed and determined by said board.

Existing
water sys-
tem defined.

§ 3. The term "existing water system," as used in this act, shall be construed to mean the "plant, franchises, water rights, lands, pipes, mains, reservoirs, hydrants, filtering plant, pumping stations, machinery and all other property essential and appurtenant to a water supply for the city of Norwich, and its inhabitants, now or hereafter owned or possessed by any person, corporation or company supplying the city of Norwich and its inhabitants with water, or having or claiming any right so to do."

Board au-
thorized to
acquire or
construct
and main-
tain
water works
system.

The Norwich water board is hereby authorized and empowered, subject to the provisions and conditions specified in section five of this act, for and in the name of the city of Norwich, to acquire by purchase or condemnation, or to construct, and maintain, control and operate a system of water works to furnish the city of Norwich and its inhabitants with water; and except as herein otherwise provided, may employ engineers, surveyors, superintendents, officers, agents and such other persons as may be necessary for said purposes, and fix their compensation and terms of employment and discharge them at will. The said board may also contract for, purchase and acquire by deed or otherwise in the name of the city of Norwich, all lands, water easements, property tenements, hereditaments, rights, privileges and franchises to any ponds, lakes, springs, streams, and any and all sources of water supply whatsoever; also to any and all dams, reservoirs, mains, pipes, conduits, hydrants, machinery and all other real and personal property whatsoever necessary for the acquisition or construction and for the maintenance, control and operation of said water works, and to contract for the construction of said water works or any part thereof, and for supplying any and all necessary materials therefor. Said Norwich water board is hereby authorized and empowered, subject to the conditions and provisions specified in section five of this act, to acquire by purchase or condemnation, for and in the name of the city of Norwich, the existing water system, and control, maintain and operate the same. Subject to the provisions of section five of this act, the said board may acquire said existing water system by purchase, provided that the price thereof shall be agreed upon between the owners of the property sought to be acquired and the said Norwich water board and shall have been approved by a majority of the taxpayers as hereinafter provided; but upon failure so to agree, the said Norwich water board is authorized and empowered, subject to provisions of section five of this act, to institute proceedings for the condemnation of said existing water system under the condemnation law, and in that manner, subject to the provisions of section five of this act, vest the title of said property in said city of Norwich. The said Norwich water board is further authorized, subject to the provisions of section five of this act, to acquire by purchase or condemnation proceedings any other or further lands, water rights, rights of way, or other property wheresoever situated, which it shall deem necessary in order

to supply water for the purposes of this act, and to contract for such property and to construct such works as in its discretion may be necessary.

§ 4. Chapter seventy-three of the consolidated laws, known as the condemnation law, shall govern and will be applicable in all proceedings taken under this act for the condemnation of property, where the same is not inconsistent with the provisions of this act.

Application of condemnation law.

The commissioners appointed by the court in any condemnation proceeding commenced under this act shall receive such compensation in addition to necessary expenses as may be fixed by the court appointing such commissioners, at the time of their appointment. The entry of the final order or judgment in condemnation proceedings shall not become operative or effective as a lien or otherwise against the city of Norwich until the award therein contained shall have been approved by a majority vote of the resident taxpayers of said city voting at a special election as hereinafter provided. In case of the rejection of the condemnation award by the taxpayers at a special election held as provided in section five of this act, the court shall set aside the report of the condemnation commissioners, and upon the application of the Norwich water board, after the question has been submitted to, and approved by a majority vote of the entire number of votes cast thereon at a taxpayers' election held as provided in section five of this act, shall appoint new commissioners for the purpose of a rehearing. In case of the rejection of any condemnation award on any hearing or rehearing, the defendant shall be entitled to the cost and allowances fixed by the final order.

Compensation of commissioners.

Taxpayers, election to approve condemnation award.

If the award of the commissioners on such rehearing or any subsequent rehearing ordered by any court is rejected by the taxpayers at a special election, the court shall set aside such report and then, and not until then, the Norwich water board is authorized and empowered to submit to a vote of the taxpayers, as provided in this act, a proposition to construct a new water works system.

Submission of proposition to construct new system.

§ 5. The Norwich water board shall have power and authority to purchase the existing water system at an agreed or stated price therefor; or to condemn the same or to build, construct and operate new water works; and to control, maintain and operate any plant purchased, acquired or constructed; but no condemnation proceeding shall be instituted, nor shall any application of the Norwich water board for the appointment of commissioners in a second or subsequent condemnation proceeding be made, nor shall the purchase, condemnation award, or determination to build and construct a water works system, be or become effective, nor shall bonds for the payment therefor be issued as in this act provided, until the said proposition shall have been adopted by receiving in favor thereof a majority vote of the entire number of votes cast thereon at a taxpayers' election held in and for said city of Norwich in accordance with the provisions of the

Proposition of board to be submitted at taxpayers' election.

charter of said city governing taxpayers' elections. The common council of the city of Norwich shall, at its next regular meeting after the receipt from the Norwich water board of a certified copy of any such proposition, submit to the resident taxpayers of said city of Norwich at a special election to be held in and for said city within sixty days thereafter any such proposition which may be duly certified by the Norwich water board to the common council of said city. The common council of said city shall, at or before its next regular meeting after such election, canvass the returns of the vote on such proposition so submitted, and declare the results thereof, and certify the said result to the Norwich water board. Any and all such special elections are hereby authorized and directed to be held in and for said city of Norwich, the cost and expense thereof to be charged against said city, including the cost of submission of any question or proposition thereof. Every proposition submitted to the taxpayers under the provisions of this act shall include a statement of the maximum amount to be raised therefor, including all necessary expenses of carrying such proposition into effect. In case of the rejection by the taxpayers, at a special election held, as provided in this section, of any proposition so submitted, the Norwich water board may within one year thereafter submit to the taxpayers in the same manner as hereinbefore provided such other proposition as in the judgment of said Norwich water board it may be advisable to submit. The construction of a new water system shall not be submitted to the taxpayers as provided in this act, until after the question of the purchase of the existing water system at the agreed price, and the question of the acquisition of the existing water system on the condemnation award, shall each respectively have been submitted to and rejected by the majority vote of the entire number of votes cast thereon at a taxpayers' election held in and for said city of Norwich in accordance with the provisions of the charter of said city governing taxpayers' elections.

Submission
of another
proposition
on rejection.

Acquisition
of existing
system to
be submitted first.

Bond issue.

§ 6. Whenever the Norwich water board shall determine and decide to purchase, condemn or build a water works system to be owned by said city of Norwich, and a proposition therefor has been carried and adopted by the taxpayers of said city as provided in the last preceding section, it shall certify to the common council of the city the estimated amount so needed, not exceeding, however, the total amounts so stated in the proposition adopted by the taxpayers at the special election held as aforesaid, and the purpose or purposes for which required; whereupon it shall be the duty of the common council of the city of Norwich by a resolution to cause bonds for the amount so certified to be issued in the name and upon the credit of the city of Norwich, which shall be executed by the mayor and city chamberlain and countersigned by the city clerk, and attested by the seal of the city. The faith and credit of the city of Norwich are hereby pledged for the payment of both principal and interest of any bonds issued under and pursuant to the provisions of this act. Said bonds

shall be issued in such form and in such denominations or amounts as the common council may deem expedient, but not less than one hundred dollars each, with interest not exceeding six percentum per annum, payable semi-annually; both principal and interest to be made payable at the office of the city chamberlain or at any bank or trust company to be designated by the common council and to be specified in each bond and coupon. Said bonds shall be so classified and issued, in accordance with the constitution of the state of New York; that said bonds shall mature in not to exceed twenty years of the date of issue thereof; and for said issue of bonds a sinking fund shall be created on the issue of said bonds, and for their redemption by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at maturity. No bonds issued under this act shall be sold at less than par and accrued interest and must be sold to the highest bidder and in the same manner provided by the charter of the city of Norwich. The proceeds of said bonds, or any of them, as soon as received, shall be paid over to the treasurer of said Norwich water board and credited to a fund which shall be known as the "water bond account" and said treasurer shall immediately upon receipt of the same deposit such proceeds in such bank, banks or trust company as shall be designated by resolution of the Norwich water board, and paid out at such times and in such manner as city expenditures are made. The Norwich water board may, however, at any time, by resolution and order issued in the manner aforesaid, transfer any funds from any bank, banks or trust company to any other bank, banks or trust company. The funds so transferred and all interest accruing thereon shall be held and paid out by such bank, banks or trust company only in the manner above provided. If, after the issue of the bonds hereinbefore provided for, it shall appear to said Norwich water board that a larger amount than the amount hereinbefore provided for is needed in order to acquire an adequate and safe supply of water, and in order to acquire and own a water works system by purchase, condemnation or construction, or the extension thereof, said Norwich water board shall from time to time certify to the common council of the city the estimated additional amounts so needed. In such case it shall be the duty of the common council to issue a second and further issue of bonds, provided such subsequent issue has been ratified and approved at a taxpayers' election called and held in the same manner in which the original issue was authorized; and such subsequent issue of bonds and the proceeds thereof shall be subject to all the provisions of this act relating to the first issue of bonds therein authorized.

Bonds;
denomina-
tion, inter-
est, etc.

Disposi-
tion of
proceeds.

Further
issues for
additional
amounts.

§ 7. The proceeds of all bonds issued under the preceding sections of this act, including any premiums thereon, shall be used and applied by the Norwich water board solely for the acquisition, purchase, condemnation or construction of the system of water works herein provided for, including all necessary expenses incident thereto, and for the purpose of acquiring prop-

Application
of proceeds.

erty rights, privileges and franchises therefor to be used in connection therewith.

Use of
public
places.

§ 8. The Norwich water board, and all persons acting under its authority and direction, shall have the right to enter, appropriate, occupy and use any public street, highway, square, avenue, road, park or other public grounds for the purpose of constructing, maintaining and operating the water works system herein provided for, and for all other purposes of this act; but the said board shall in all cases restore such public street, highway, square, avenue, road, park and other public ground to its former condition under the direction and supervision of the common council.

Members
not to be
interested.

§ 9. No member of the Norwich water board or any of its officers shall be directly or indirectly interested in any contract relating to property acquired or work done or materials furnished under the authority or provisions of this act. Any violation of this provision shall be a misdemeanor and all contracts made in violation of this section shall be void. No member of the Norwich water board shall receive compensation for his services as such.

No com-
pensation.

Power of
board to
make
contracts.

§ 10. The Norwich water board, except as herein otherwise provided, shall have power to make all contracts necessary or incidental to the execution of the powers conferred by this act, but no contract or agreement for labor or materials, or either of them, requiring an expenditure of more than five hundred dollars shall be entered into except in case of absolute necessity, or except for the employment of officers, agents, engineers, counsel and other employees of the board and except as herein otherwise directed, without first advertising at least once a week for two successive weeks in two newspapers published in the city of Norwich and such other papers and periodicals as said board may direct, for proposals to enter into contract for the work or materials required. All such contracts shall be let to the lowest responsible bidder, who shall furnish such security for the faithful performance of the contract as shall be approved by the board; but the board may, as many times as it shall determine, reject any or all of such bids in its discretion and readvertise for proposals. Each proposal received shall be publicly opened in the presence of the board, and each proposal received and each contract entered into by the board, or the copies thereof, shall be filed with the clerk of said board, and each bid must be accompanied with such security as said board shall prescribe. In the event that the Norwich water board rejects all of such bids, it may, if it believes that the work can be done more economically by the Norwich water board, determine, in its discretion, to cause the work to be done under its direction and that of the Norwich water board employees charged with such duty.

Letting
contracts.

Power to
perform
work
directly.

Application
of receipts,
except from
bond issues.

§ 11. The amount derived from receipts from all sources except bond issues shall be applied:

1. To the payment of the necessary cost of maintaining, managing and operating the said system of water works.

2. To provide a sinking fund for the payment of the principal and interest on the bonds issued under the provisions of section seven of this act and for which a sinking fund is required to be created. Said sinking fund shall be managed by the board of water commissioners and shall be invested in the same kind of securities as those in which savings banks of this state are by law authorized to invest the money deposited therein.

3. To the payment of the interest falling due upon all other bonds issued under the provisions of this act.

4. To the payment of the cost of necessary extensions and additions.

After all such obligations shall have been paid and discharged, if there shall remain any surplus of income, it shall be applied to the purchase or payment of the bonds issued pursuant to the provisions of this act, which are not payable from the sinking fund. Any bonds so purchased or paid shall be marked canceled by the Norwich water board, and shall be delivered to the city chamberlain. In any year in which said income shall be insufficient for the purposes of maintaining and operating the said system of water works, and for the payment of the interest falling due on said bonds, and providing a sinking fund, the common council of the city of Norwich shall make due provisions by tax for the payment of the deficiency which shall be raised in any year in addition to the aggregate limit as specified and provided by the charter of the city of Norwich and such deficiency shall be assessed, levied and raised in the same manner as other general taxes of said city, and the Norwich water board shall annually certify to the common council of said city on or before the last regular meeting of the common council held in September in each year, the amount to be so raised.

Tax to pay
deficiencies.

§ 12. After the city of Norwich shall in any manner become the owner of its water works system, and any extensions thereof are deemed necessary by the Norwich water board, and no funds are available for such necessary extensions from the income, receipts or earnings of said water works or from any other source herein provided, the Norwich water board may thereupon certify such facts to the common council of the said city together with a description of such proposed extension and a statement of the amount needed therefor, and if the common council concur therein, said common council shall raise the same by taxation in the next succeeding annual tax levy in addition to the items and aggregate specified in section three hundred and thirty-three of title fourteen of chapter thirty-four of the laws of nineteen hundred and fourteen up to an amount not exceeding one thousand dollars in any one year; or if the requisite amount exceeds said sum of one thousand dollars, the common council shall submit the proposition to a taxpayers' election as provided herein and after approval may issue bonds for the amount so approved, which bonds shall be issued in the name and on the credit of the city of Norwich. The provision of section six of this act, in so far as consistent, shall be applicable to and govern the issue and

Tax to pay
for ex-
tensions.

Taxpayers'
election
where
amount ex-
ceeds
\$1,000; bond
issue.

sale of said bonds and the deposit and method of disbursing the proceeds thereof; and said bonds shall mature in not to exceed twenty years from the date of issue thereof and a sinking fund shall be created for their redemption as provided in said section six.

Temporary
loans.

§ 13. Whenever the Norwich water board shall determine to purchase, condemn or construct a water works system to be owned by said city, and whenever the common council of said city has, pursuant to the provisions of this act, authority to issue any bonds, said common council may, instead of issuing bonds in the first instance, borrow temporarily from time to time such sum or sums as may be necessary, and authorize the mayor and clerk of said city to borrow the same temporarily and issue certificates of indebtedness therefor which shall be a valid indebtedness against said city, until bonds shall be issued by the common council of said city under and pursuant to the provisions of this act, to replace and take up such certificates of indebtedness and such sums so borrowed and interest thereon, provided, however, that no such temporary loan shall be made or perfected for a period longer than two years.

Water
rates;
regulations.

§ 14. The Norwich water board, after the acquisition by the city of a water plant, shall from time to time fix and determine and may modify, alter and amend, increase or decrease the water rates to be paid by all consumers of water, including a just and annual rate to be paid by the city at large on account of the use of water for municipal purposes. The real and personal property under the control and management of the Norwich water board shall be subject to taxation and liable for all taxes and assessments the same is if said property was owned by a business corporation. The Norwich water board shall fix, and the treasurer shall collect the annual, semi-annual, quarterly or monthly rates for water supply to the dwellings, buildings, places, establishments or uses of individual companies or corporations and shall have the right to discontinue or shut off any water for non-payment of any legal dues for water services, or violation of any rules and regulations of said board. Such rents shall be a lien on the real property on which the water is used. All moneys and incomes which shall be received by the board for water or on account of said system of water works shall be deposited to the credit of a fund to be known as "water fund account" in the bank, banks or trust companies designated as city depositories by the common council and shall be paid out in the same manner as provided in section six of this act for paying out the proceeds of the water bond account. Said commissioners, their representatives and employees are authorized at all times to enter into any building or place where water is used from supply pipes to examine as to the pipes, water, quantity of water used, and manner of using it. Said board may sell to any corporation or individual outside of the city the right to make connections with the mains for the purpose of using water therefrom and fix the price and conditions therefor, but said water board shall not permit such

Sale of
water
outside
city.

use of water if thereby the supply of water for the city or its inhabitants will be insufficient.

§ 15. The said Norwich water board shall make, publish and enforce all needful by-laws, rules and regulations in relation to their own government and to the said water works, and all the property and appliances thereto, and in relation to the management thereof and the supply of water thereby, whether to individuals or corporations, and may alter and modify the same from time to time, and may fix a penalty not exceeding fifty dollars for the violation of any of said rules and regulations. The said common council may aid such enforcement by ordinance. The said water board may prosecute in its own name for all violations of said rules, regulations and ordinances.

By-laws, rules and regulations in relation to water works.

§ 16. The moneys derived from the penalties and water rates provided by this act shall be paid to the treasurer of said water board, and shall by him be immediately deposited to the credit of the water fund account in the bank, banks or trust companies designated by the common council and shall be applied as provided in this act.

Disposition of penalties and water rates.

§ 17. No obligation shall be incurred or money expended, or issue of bonds certified under this act by the Norwich water board, except by resolution duly passed by the concurring vote of at least four members of the board. The yeas and nays shall be taken on every such resolution, and the vote thereon be recorded in full in the minutes of the board.

Resolution for incurring obligation or expenditure.

§ 18. All judgments against said commissioners in their name of office, and judgments against them where the transaction upon which the action was brought shall have been in the performance of their duties as commissioners, shall be deemed judgments against said city and shall not be enforced against the individual property of any of the said commissioners.

Judgments against commissioners.

§ 19. The Norwich water board shall keep books, showing the cost of the acquisition, construction and maintenance of said water works and of extending the same, and all its collections, receipts, expenditures, proceedings or doings, and shall make a report thereof to the said council at the first regular meeting of said council in the month of January in each year, and as often as the common council may require; and shall furnish at all times such other or further information as to the business and affairs of the board as may be required by the common council.

Board to keep books; reports.

§ 20. The treasurer of the Norwich water board is hereby authorized and directed to prepare, and at all times to keep a book or books in which shall be entered all moneys received and deposited by him in any bank, banks or trust company and all moneys paid out on orders or warrants issued to him, and also shall keep on file all resolutions, instruments and other papers received by him, and a record of all acts and things required to be done by him under the provisions of this act.

Books and records of treasurer.

§ 21. Any willful act whereby the said water works or any property, apparatus or appliance pertaining thereto, shall be injured or the supply of water wrongfully obstructed, impeded, impaired or diverted or made less pure, shall be a misdemeanor.

Injury to water works a misdemeanor.

Board authorized to incur expenses in certain preliminary investigations.

§ 22. The Norwich water board is hereby authorized and empowered to incur all necessary expenses not exceeding the amount hereinafter specified in investigating the value of the water works system and property, now or hereafter owned or possessed by any existing corporation or company organized to supply the city of Norwich and its inhabitants with water or having or claiming any right so to do; including its system, franchises, sources of supply, utility, profits, income and value. Said Norwich water board is also authorized and empowered to incur all necessary expenses not exceeding the amount hereinafter specified in investigating the cost of condemnation of said water works system, and the cost and expense of constructing a new water works system, and of investigating sources of water supply. The salaries, fees or compensation of all experts, engineers, agents, employees, counsel, aids or assistants retained or employed by said Norwich water board shall be fixed and agreed upon before any such parties enter upon their employment. The expenses so incurred, and the salaries, fees or compensation so agreed upon, together with the necessary and proper cost and expense of doing, performing and effectuating any act, provision or authority contained in this act, or anything necessary to be done in carrying out any of the provisions, purposes and objects of this act, or any part thereof, except the purchase price, condemnation award, or the construction of new water works, shall be a charge, not exceeding the amount hereinafter specified, against the city of Norwich and shall be certified by the Norwich water board to the common council of said city. The expenses of investigation authorized to be incurred by the Norwich water board by the provisions of this section, including salaries, fees and compensation of experts, engineers, agents, accountants, employees, counsel, aids or assistants to carry out the provisions for purchase contained in section three of this act and the necessary investigations connected therewith shall not exceed five thousand dollars, and including disbursements and expenses in condemnation proceedings exclusive of the purchase price, condemnation award or the cost of construction of a new water works and exclusive of the cost and allowances fixed by the final order of the court against the city, shall not exceed fifteen thousand dollars additional unless authority to expend a greater sum is previously granted by a majority vote in favor thereof of the resident taxpayers voting at the taxpayers' election held in and for the said city of Norwich as provided in the next section.

Amounts limited.

Bond issues therefor authorized.

§ 23. Whenever the Norwich water board shall certify to the common council the estimated amount needed for the purposes in the preceding section specified, the common council shall, in the event there are no other funds applicable for the purpose, cause bonds for the amount so certified, not exceeding five thousand dollars for preliminary investigation, and not exceeding fifteen thousand dollars additional in case the taxpayers decide to institute condemnation proceedings, to be issued in the name and on the credit of the city of Norwich. The provisions of section six

of this act, in so far as consistent, shall be applicable to and govern the issue and sale of said bonds and the deposit and methods of disbursing the proceeds thereof. Said bonds shall mature in not to exceed thirty years from the date of issue thereof. The proceeds of said bonds shall be used so far as necessary to defray the necessary expenses of investigation specified in the preceding section. In case the sum so raised is not sufficient for such purposes, the Norwich water board shall certify such facts to the common council, together with a statement of the additional amount required, and the purposes for which required; and the common council shall cause such amount to be raised provided the proposition to raise said sum shall have been adopted by receiving in favor thereof a majority vote of the entire number of votes cast thereon at a taxpayers' election held in and for said city of Norwich, in accordance with the provisions of the charter of said city governing taxpayers' elections. The provisions of section three hundred and fourteen of the Norwich city charter shall in so far as applicable govern such elections.

§ 24. All power and authority conferred by this act shall be limited by the provisions of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, establishing a state conservation commission. Application of conservation law.

§ 25. This act shall take effect immediately.

CHAPTER 541

AN ACT to amend chapter six hundred and sixty of the laws of nineteen hundred and twenty-one, entitled "An act to authorize the laying out of a highway over lands owned by the city of New York, in the counties of Kings, Queens and Nassau; to establish and provide for the construction and improvement thereof as a county highway, and authorizing an appropriation therefor," in relation to the manner of paying for the city of New York's share of the cost of construction.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections two, three, four and seven of chapter six hundred and sixty of the laws of nineteen hundred and twenty-one, entitled "An act to authorize the laying out of a highway over lands owned by the city of New York in the counties of Kings, Queens and Nassau; to establish and provide for the construction and improvement thereof as a county highway, and authorizing an appropriation therefor," is hereby amended to read as follows: L. 1921, ch. 660, §§ 2-4, 7 amended.

§ 2.¹ The board of estimate and apportionment of the city of New York may direct the commissioners of the sinking fund of Dedication, how made.

¹ Section 2 materially amended.

State to
pay pro-
portion of
expense.

Portion to
be borne
by city,
how to be
raised.

Construc-
tion, how
to be made.

Certification
of city's
share.

Disposition
of moneys
provided
by city.

such city to dedicate, without cost to the state, such rights and easements as may be necessary for the use of the lands described in section one hereof or any part thereof as may be necessary for state, county or special highway purposes; and when so directed, such commissioners shall make such dedication accordingly. The dedication as to form and execution shall be subject to the approval by the attorney-general. When such rights and easements shall be so dedicated, the highway laid out upon such lands shall thereupon be and become a special highway in the counties of Kings and Queens and a state or county highway in the county of Nassau. The state shall provide the same proportion of the expense of such original construction and original improvement within the limits of the city of New York as it pays in the counties adjacent to such city for the construction of county highways. The portion of such expense that would be borne by any county in the city of New York in accordance with the law shall be borne by the city of New York, and may be raised by the issuance and sale of the city obligations in such manner not inconsistent with the Greater New York charter as the board of estimate may determine. Notwithstanding any limitations contained in existing laws, the city of New York, in addition to corporate stock and serial bonds now permitted by laws to be issued, may, in the manner and by agencies now provided by law, issue corporate stock or serial bonds to an amount necessary to provide for its share of the cost of any improvement provided by this act. The collection of such amount by taxation may be distributed over a term of years by the board of estimate and apportionment of the city of New York in such a manner as it may determine.

§ 3. Except as otherwise provided in this act, the construction and improvement of such ² highway shall be in accordance with the provisions of the highway law relating to the construction of ³ county highways; provided, however, that the plans and specifications for the construction and improvement of such highway, to be prepared by or under the direction of the state commissioner of highways, shall be subject to approval by the board of estimate and apportionment of the city of New York. When the plans, specifications and estimates for the construction and improvement of such highway shall have been prepared and approved by the state commissioner of highways, as provided in the highway law, and after the approval of such plans and specifications by the city of New York as provided in this act, the state commissioner of highways shall certify to the board of estimate and apportionment of the city of New York the amount of the probable cost of such construction and improvement according to such estimates and it shall thereupon be the duty of such city to provide the moneys required by this act for paying its share. The moneys to be provided by the city of New York shall be deposited with the city chamberlain, who shall pay the

² Word "county" omitted.

³ Word "other" omitted.

same out to the order of the state commissioner of highways for the purposes provided for in this act.

§ 4. Upon notification to the commissioners of the sinking fund of the city of New York by the state highway commissioner, that he is prepared to advertise for bids for the construction of such highways,⁴ the commissioners of the sinking fund, in pursuance to the direction of the board of estimate and apportionment, shall dedicate all, or such part, as may be necessary, of the strip of land, acquired by the city of New York for its seventy-two inch pipe line, extending from private property line to private property line throughout its entire length, for such highways⁵ purposes. Such dedication shall be in a form approved by the state commissioner of highways. Upon the approval of such dedication by the state highway commissioner and the filing or recording thereof and the filing of the certificates as provided, the property thus dedicated shall be exempt from taxation by the state, county or any political subdivision thereof. Such exemption shall become effective as of the date of the filing of the last certificate required hereunder.

Dedication,
when to
be made.

Exempt
from
taxation.

§ 7. No part of the moneys appropriated by the state of New York for the construction of the county highway described in section one hereof shall be available until the following conditions are complied with:

Moneys
appropri-
ated by
state, when
available.

1. The state commissioner of highways shall certify to the comptroller that the amount of money to be contributed by the county of Nassau and by the city of New York, respectively, for the construction of said highway described in section one hereof have been paid over to the respective fiscal officers thereof and made payable to his order.

2. There shall be filed with the state comptroller a certificate of the mayor of the city of New York that the highway mentioned in section one of this act has been duly laid out, in conformity with law, a certificate of the attorney-general that the city of New York has conveyed or dedicated by an instrument approved by him, sufficient rights and easements in the property described in section one of this act which may be necessary for the use thereof for such highways⁶ purposes; a certificate of the state commissioner of highways that the plans and specifications for the construction and improvement of such highways⁷ have been approved by the board of estimate and apportionment of the city of New York and the board of supervisors of the county of Nassau.

§ 2. This act shall take effect immediately.

^{*} So in original. [Should be "highway."]

⁴ Words "such highways" substituted for words "said county highway."

⁵ Words "such highways" substituted for words "county highway."

⁶ Word "county" omitted.

⁷ Word "highways" substituted for words "county highway."

CHAPTER 542

AN ACT to authorize the city of New York to lay out, open and improve streets within the territory bounded by the northerly line of Twenty-sixth street, the easterly line of Third avenue, the southerly line of Thirty-ninth street, and the bulkhead line along Gowanus bay and New York bay, in the borough of Brooklyn of said city.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The city of New York acting by its board of estimate and apportionment may lay out upon the map or plan of said city for the borough of Brooklyn, and open and improve streets within the territory bounded by the northerly line of Twenty-sixth street, the easterly line of Third avenue, the southerly line of Thirty-ninth street and the bulkhead line along Gowanus bay and New York bay in the borough of Brooklyn of said city, in the manner provided by the Greater New York charter as amended, without obtaining the consent of adjacent owners. Any act or any provision of any act inconsistent with this act is hereby repealed.

§ 2. This act shall take effect immediately.

CHAPTER 543

AN ACT to authorize the city of Hudson to borrow money by the issue of bonds for the purpose of building a public school and purchasing furniture and equipment and a site therefor.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Certificate
of necessity
for new
public
school.

Section 1. Whenever, during the year nineteen hundred and twenty-two, the board of education of the city of Hudson shall determine that it is necessary to erect a new public school in the city of Hudson and to purchase a site, furniture and equipment therefor, said board of education shall file in the office of the city clerk a certificate in writing signed by not less than four-fifths of its members, certifying to the common council that the erection of a new public school building in said city and the purchase of a site, furniture and equipment therefor are necessary, which certificate shall further certify the sum or sums of money required in the opinion of the board of education for such purposes. Said certificate shall be presented by the city clerk to

the common council at its next meeting after such filing and shall be recorded at length in the record of the proceedings of the common council.

§ 2. The common council shall thereupon and within sixty days after the filing of such certificate, raise upon the credit of the city such sum or sums of money as shall be stated in said certificate and for the purpose or purposes therein stated, but not exceeding the sum of one hundred and twenty-five thousand dollars by the issue and sale of bonds of the city, in such form and of such denominations as the common council shall prescribe and a rate of interest not exceeding five per centum per annum and payable at such times and in such installments as the common council shall prescribe. Such bonds shall be known and designated as "public school bonds, nineteen hundred and twenty-two" and shall be signed by the mayor and city clerk and shall be sealed with the seal of the city and shall be sold in such manner as shall be deemed by the common council as likely to secure the greatest obtainable price for such bonds, but not less than par. The proceeds of the sale of such bonds shall be deposited with the city treasurer to the credit of the board of education, subject to its draft, to be used for the purpose or purposes stated in said certificate of the board of education.

Bond
issue
directed.

Disposi-
tion of
proceeds.

§ 3. While any bond issued under this act shall remain unpaid, the common council shall annually raise by taxation an amount sufficient to pay the principal and interest of the bonds issued under this act, payable in the then current fiscal year until the last bond issued by authority of this act shall be fully paid and retired.

Tax for
payment.

§ 4. This act shall take effect immediately.

CHAPTER 544

AN ACT to amend chapter four hundred and forty-seven of the laws of nineteen hundred and twenty, entitled "An act to provide a city planning commission in and for the city of Syracuse," generally.¹

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one, two, three and four of chapter four hundred and forty-seven of the laws of nineteen hundred and twenty, entitled "An act to provide a city planning commission in and for the city of Syracuse," are hereby amended to read as follows:

L. 1920,
ch. 447,
§§ 1-4
amended.

Section 1. **Creation, appointment and qualifications.** There is hereby established in and for the city of Syracuse a commission

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

to be known as the planning, parks and recreation commission. This commission shall consist of seven members, of whom three shall be appointed by the mayor to hold office during his pleasure. The term of office of the appointed officers shall be for three years, dating from January first of each year, provided, however, that when the first commission shall be appointed under the provisions herein, the appointment shall be for one, two and three years respectively, said terms ending January first, nineteen hundred and twenty-three, and on January first of each succeeding year. The commissioner of parks, city engineer, commissioner of public safety and corporation counsel shall be ex-officio members of the commission.

§ 2. **Officers and assistants.** The appointive members of the commission shall serve without compensation. The commission shall elect annually a chairman from its members. It shall have power to adopt rules and regulations not inconsistent with law for the transaction of its business. Upon any matters brought before the commission, it must hold a public hearing upon the written request of two members. It may appoint a secretary and such experts and subordinates as shall be prescribed who shall receive such compensation as shall be fixed by the board of estimate and apportionment.

§ 3. **General powers and duties.** 1. It shall be the duty of the commission to prepare a comprehensive plan of the city and the whole or any part of lands outside of and within a distance of three miles beyond the city limits, and to set forth thereon such streets, parks and playgrounds which it deems the proper development of the city requires or may hereafter require to be acquired, developed, opened, extended, widened or discontinued. Amendments, alterations and additions to said plan or plans may be made from time to time.

2. The commission shall pass upon all streets offered for dedication, all proposed plans for opening, widening, extending or discontinuing streets, and an ordinance for any of the aforesaid purposes shall not be adopted without the approval of the commission, except by two-thirds vote of all of the members of the common council.

3. No plan, plot, map or description, showing the layout of any highway or street upon private property, or of lots or parcels adjacent to or capable of being used in connection with or in relation to such highway or street within the city limits or within three miles beyond the limits of the city shall be entitled to be received or recorded in the office of the clerk of Onondaga county without the approval of the commission.

4. The location of public buildings, streets, highways, boulevards, parks, parkways, playgrounds, or any other public grounds, docks, water front improvements, bridges, tunnels, or subways, or any surface, underground or elevated railways; and the track or tracks thereof shall be referred to the commission before final action. Nothing herein contained shall be deemed to vest the commission with any authority inconsistent with the power of

the grade crossing commission and shall not be interpreted as intending to limit or impair the power of such commission.

5. Upon all cases arising under the exercise of the foregoing powers, the decision of the commission shall be final and conclusive unless reversed by ordinance adopted by a majority of the common council provided, however, that the commission must make a report within thirty days from the date of receipt of request therefor. If the commission makes no report within such period, its action shall not be required and the proper city authorities may within thirty days thereafter act without such report.

6. The commission shall have the power, by and with the consent by ordinance of the common council, to divided the city into districts and to regulate, restrict and prohibit the location of businesses, trades and industries, and the location, alteration and occupation of buildings or structures designed for specified uses or of a certain character or class in any such district, also to prescribe for each such district the trades, businesses and industries that shall be permitted, excluded or subjected to special regulations and uses for which buildings and structures may or may not be erected, altered, used or occupied. The use or occupation of a building or structure shall not be changed or altered so as to be in violation of the rules, regulations, restraint or prohibition applying to such district. A portion of a street may form or be a part of any such district. Residence districts may be created in which shall be permitted only single family dwelling-houses or residences containing accommodations for such number of families as may be deemed proper. Specified businesses may be included in one district and others excluded therefrom and special regulations may be prescribed for the businesses, trades, or industries in such district. Regulations, restrictions and prohibitions in one or more districts may differ from those of other districts. Such regulations, restrictions and prohibitions shall be designed to promote the health of the public, the safety and welfare of the inhabitants of the city, the promotion of the growth and prosperity of the city and to secure the proper development and upbuilding of the city. Such regulations, restrictions and prohibitions may from time to time be amended, modified, altered or annulled by resolution of the commission and ordinance of the common council. The "Zoning Rules and Regulations for the city of Syracuse" heretofore adopted by the city planning commission and approved and adopted by ordinance of the common council and now in force and effect in the city and the same as amended, modified, altered or annulled from time to time, including all specific penalties fixed for the violation of any provisions thereof shall be binding in the city and have the full force and effect of statute.

7. It shall be the duty of the commission to cause to be made complete maps and plans of all lands used, acquired or owned by the city for park, playground and recreation purposes; of all lands owned by the city but not so used, and which it shall deem

suitable for park, playground and recreation purposes; also lands within or without the city not owned by it, which the commission deem it advisable for the city to acquire for park, playground and recreation* purposes. Such maps and plans shall be public records. They may from time to time be amended, modified and supplemented by the commission in its discretion and shall be filed and preserved as it shall direct. The commission shall possess general jurisdiction, supervision and control over the acquisition of all lands for park, playground and recreation purposes. No land shall be appropriated or acquired for park, playground or recreation purposes, except by and under the control, supervision and direction of the commission and in accordance with maps and plans theretofore approved by it.

8. The commission, subject to the rules of the park department, shall have the power to arrange, provide for and conduct public games, parades, exhibitions, pageants, contests and other entertainments and recreation of a healthful, moral or educational character in the parks and playgrounds and, subject to the rules of the department of education, may at proper times hold the same in school buildings.

§ 4. **Public monuments and structures.** The commission shall have final jurisdiction, control and authority over the design, location, placing, erection and acceptance of public monuments, memorials, statues, drinking fountains, ornamental lights, and all permanent works of art, decoration or ornament placed or sought to be placed in any of the parks, streets, playgrounds or public places of the city, and no structure of that character shall be placed or accepted without the consent of the commission and in such location and manner and under such conditions as it shall prescribe.

§ 5 re-
numbered
§ 10;
§§ 5-9
added.

§ 2. Section five of such act is hereby renumbered section ten and such act is hereby amended by inserting therein five new sections, to be sections five to nine, inclusive, to read as follows:

§ 5. **Acquisition of lands.** The commission shall conduct on behalf of the city all negotiations and proceedings for the acquisition of lands for park, recreation and playground purposes. It may, in the name of the city, contract for and acquire lands by voluntary purchase for park, playground and recreation purposes when authorized so to do by ordinance of the common council, approved by resolution of the board of estimate and apportionment and upon such terms and conditions as shall be therein specified. In case the commission is unable to agree with the owner or owners of any lands which, in its opinion, should be acquired by the city for parks, recreation or playground purposes, the commission shall cause surveys and maps thereof to be made and report the same, together with the facts relating thereto, to the common council with an accurate description of the land so desired to be acquired. When authorized by ordinance of the common council, approved by resolution of the board

* So in original. [Word misspelled.]

of estimate and apportionment, the commission may in the name of the city acquire said lands or any part thereof for such purpose in and by the proceedings provided by law for the taking of lands for street opening purposes, and which purposes shall be deemed to be a public purpose and the land so described shall be deemed necessary for public use. The commission, its officers and agents may enter upon any lands for the purpose of making such surveys, examinations and investigations as it may deem necessary in the performance of its duties. The commission, when authorized so to do by ordinance of the common council, approved by resolution of the board of estimate and apportionment, may accept in the name of the city, by gift, deed or devise, lands for street, park, playground, recreation or other public purpose.

§ 6. **Funds.** The moneys and other property now in the hands or under the jurisdiction of the park commission of the city of Syracuse are hereby transferred to the planning, parks and recreation commission and subject to the approval of the board of estimate and apportionment, said moneys shall be used by the commission for the acquisition or permanent improvement of lands now used or hereafter acquired for parks and playgrounds and for other lawful purposes.

§ 7. **Expense.** The expenses of the planning, park and recreation commission shall be defrayed out of moneys appropriated to the commission in accordance with law and in the expenditure thereof the commission shall be governed by the provisions of law applicable to the expenditure of moneys by other city officers.

§ 8. **Limitations.** Nothing herein contained shall be construed as depriving the commissioner of public works of his jurisdiction, control, authority and supervision over the maintenance and repair of the streets, highways, sidewalks and public places of the city; nor to restrict or interfere with the jurisdiction, power and authority of the commissioner of parks in the care and maintenance of parks or in the making of repairs and improvements therein; nor to limit the commissioner of parks in his supervision, care, operation, management and control of the parks.

§ 9. **Laws repealed.** Chapter five hundred and eighty-six of the laws of nineteen hundred and six, as amended by chapter three hundred and ninety-eight of the laws of nineteen hundred and seventeen, and all acts or parts of acts, insofar as inconsistent with the provisions of this act, are hereby repealed.

L. 1906,
ch. 586, as
amended by
L. 1917,
ch. 398,
repealed.

§ 3. This act shall take effect immediately.

CHAPTER 545

AN ACT to authorize the city of Rochester to borrow money and to issue general city bonds and notes for the purpose of paying or retiring bonds or certificates of indebtedness issued by the commissioners of sewage, pursuant to chapter six hundred and three of the laws of eighteen hundred and ninety-two, and acts amendatory thereof or supplemental thereto, and to make, levy and collect a tax and an assessment for the payment of such bonds and notes.

Accepted by the City.

Became a law April 8, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Payment and retirement of bonds and certificates, authorized.

Commissioners of sewage relieved from responsibility; continued in office.

Powers of city.

Power of common council to issue bonds or notes.

Section 1. The city of Rochester is hereby authorized and empowered to pay the interest and principal of the outstanding bonds and certificates of indebtedness, or any part thereof, issued pursuant to chapter six hundred and three of the laws of eighteen hundred and ninety-two and acts amendatory thereof and supplementary thereto or to purchase, retire and cancel such bonds and certificates of indebtedness and to levy, assess and collect a tax or assessment therefor. Such city may make such terms and conditions with and set such reasonable limitation of time for the exercise of and offer such options to the owners and holders of such bonds and certificates of indebtedness as such city deems proper. The commissioners of sewage appointed pursuant to chapter six hundred and three of the laws of eighteen hundred and ninety-two and acts amendatory thereof and supplementary thereto, are relieved from all acts and responsibility as to all or any portion of the indebtedness for the construction of such sewer as may be discharged pursuant to this act by appropriate action, or action purporting to be appropriate, of such city, and shall continue in office with the duty to act and with full responsibility as prescribed by law as to all or any portion of the indebtedness for the construction of such sewer as may not be discharged by such appropriate action, or action purporting to be appropriate, of such city.

§ 2. The city of Rochester has and may exercise all its powers, rights and privileges, and all further incidental and additional powers, rights and privileges as may be necessary for the purposes herein set forth and to effect the intent of this act, subject to the limitation set forth in section seven hereof.

§ 3. The common council of the city of Rochester shall have the power from time to time to borrow money and to issue bonds and notes in the same manner as provided in the charter of such city for the issuance of city bonds or notes in such amount or amounts as the common council shall declare necessary and maturing at such times with such rate of interest not exceeding six per centum per annum, payable semi-annually, as the common council shall determine, including power to levy taxes for the payment of principal and interest thereof, the proceeds of such bonds or notes to be used for the payment and retirement in

whole or in part of the principal and interest of all, or a part, of the outstanding bonds, or certificates of indebtedness, issued by the commissioners of sewage for the tenth, fifteenth and twentieth wards in the city of Rochester and the town of Gates, pursuant to chapter six hundred and three of the laws of eighteen hundred and ninety-two and acts amendatory thereof and supplementary thereto.

§ 4. The city of Rochester in order to reimburse itself for all moneys paid out as aforesaid shall have the power to levy and assess on the territory and property deemed benefited, in the manner provided in the charter of such city, the whole or part of the cost and expense of any work or improvement made by or under the direction of such commissioners of sewage, or the whole or part of the cost and expense of paying and retiring, in whole or in part, the principal and interest of any bonds or certificates of indebtedness issued by such commissioners. Notwithstanding any provision of the charter of such city to the contrary, the common council thereof may annually levy, assess and collect any part of any tax or assessment authorized by this act, and may determine that the whole or any part of any tax or assessment so authorized shall be paid in one or more annual payments.

Assessment of property benefited to reimburse city.

§ 5. All taxes and assessments levied or assessed by virtue of this act shall be liens on the lands and property against which the same are assessed and may be collectible in the same manner as other taxes and assessments levied by the city of Rochester. Assessments for the cost of and expense of construction of sewers by said commission heretofore levied upon the property deemed benefited and the liens thereof, shall not be affected by the passage of this act, and they may be collected in the same manner and by the same officials as though this act had not been passed.

Lien and collection of taxes and assessments.

§ 6. All books, records, tax rolls, assessment rolls, deeds, contracts and documents belonging to or in the possession of the treasurer of the county of Monroe, relating to the matters and things set forth in chapter six hundred and three of the laws of eighteen hundred and ninety-two and acts amendatory thereof and supplementary thereto, shall forthwith be turned over to the mayor of the city of Rochester and the mayor shall file the same in the proper offices. Full access and custody, nevertheless, to such books, records, tax rolls, assessment rolls, deeds, contracts and documents may be had by such commissioners of sewage at any time when it may be necessary in order to facilitate the proper performance of their duties.

Books, tax rolls, deeds, etc.

§ 7. Notwithstanding the provision of any law, general or special, the city of Rochester, its officers, boards, departments and bureaus shall have no power to modify, vacate, apportion, cancel, remit or rebate any tax or assessment or affect the lien thereof, heretofore or hereafter levied or made by such commissioners of sewage; to pay any interest on unpaid interest indebtedness, or more than four per centum per annum simple interest on unpaid principal indebtedness represented by such bonds or certificates of indebtedness issued by such commissioners of sewage.

Powers of city and officers limited.

§ 8. This act shall take effect immediately.

CHAPTER 546

AN ACT to amend the general municipal law, in relation to the establishment, powers and duties of certain boards of child welfare.

Became a law April 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Art. 7B
added to
L. 1909,
ch. 29.

Section 1. Chapter twenty-nine of the laws of nineteen hundred and nine, entitled "An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws," as amended, is hereby further amended by adding a new article seven-b, to read as follows:

ARTICLE 7-B.

BOARDS OF CHILD WELFARE IN CERTAIN COUNTIES.

- Section 156. Establishment; appointment; definitions.*
157. The board; powers and duties; general.*
158. Appropriations and limitations; penalties.*
159. Appeals.
159-a. Effect of decision as to validity of article.

§ 156. **Boards of child welfare.** 1. Establishment. The existing boards of child welfare as provided for in article seven-a of this chapter are hereby continued with all the jurisdiction, powers and duties vested in such boards by such article. A board of supervisors of a county outside of the city of New York, other than Dutchess and Suffolk counties, may, by resolution adopted by a majority vote of its members, determine that the board of child welfare existing in such county at the time of the adoption of such resolution on and after a date specified in such resolution when organized as provided in this article, shall have the jurisdiction, powers and duties prescribed by article seven-a and the additional jurisdiction, powers and duties prescribed by and as set forth in this article. The clerk of the board of supervisors shall cause a certified copy of such resolution to be filed and recorded in the office of the county clerk, and thereupon the existing board of child welfare in such county shall be deemed established under this article as of the date specified in such resolution of the board of supervisors.

A board of child welfare, when so established, shall be responsible for the relief and care of dependent children received by it as public charges and of such children as may be committed to it by the courts and it shall administer public aid for dependent children generally. It may administer such relief and care either directly or through a duly authorized association, agency, society or institution.

* So in original. [Does not conform to section heading.]

(2) Appointment. The board shall consist of seven members of which the county official charged with the relief of the poor and either the chairman of the board of supervisors or other member as may be designated by the board of supervisors shall be ex-officio members, except that the membership of the board of child welfare existing on the date of its establishment under this article shall continue as then constituted until a vacancy shall occur in the office of an appointive member, whereupon his place on the board shall be taken by such chairman or other member of the board of supervisors as an ex-officio member, and thereafter the board shall be constituted as provided in this article. If any county have more than one superintendent of the poor, the board of supervisors shall designate, by writing, filed with the county clerk, the superintendent who shall serve as a member of such board. The other five members of the board shall be appointed by the county judge for such terms that the term of one appointive member of the board shall expire each year thereafter. Upon the expiration of the term of office of a member of the board, his successor shall be appointed by the county judge for a full term of five years. In case of the failure of any appointive member to attend meetings of the board during a period of three consecutive months, it shall be the duty of the secretary of the board at once to certify such fact to the county judge. Unless the county judge excuse such absence in writing for illness or other good and sufficient reason, the term of office of such member shall at once cease and determine. Such excuse shall be filed with and made a part of the records of the board. If a vacancy occur, otherwise than by expiration of term in the office of an appointive member of the board, it shall be filled for the unexpired term. It shall be the duty of the county judge to fill every vacancy within thirty days after such vacancy occurs. The protestant, catholic and Jewish faith shall, as far as practicable, be represented in the board, and at least two members of the board shall be women. Appointments shall be made in writing and filed with the county clerk. The members of the board shall receive no compensation for their services as members thereof but shall be entitled to reimbursement for the actual and necessary expense incurred by them in discharging their duties under this article. Members of the board shall be subject to removal by the county judge for reasons stated in writing and after having been given an opportunity to be heard.

(3) Definitions. The terms used in this article shall in its interpretation be defined as follows: The words a "dependent child" shall mean a child actually or apparently under the age of sixteen years who, through no neglect on the part of its parent or custodian, is destitute or homeless, or in a state of want or suffering due to lack of sufficient food, clothing, shelter, medical or surgical care.

The words "the board" shall mean the county board of child welfare whose establishment is hereby authorized.

The words "child" or "children" unless otherwise indicated

shall mean respectively a person or persons under the age of sixteen years.

The words "custodian" or "custody" means lawful custody and lawful custodian.

The words a "duly authorized association, agency, society or institution" shall mean a humane society or a society for the prevention of cruelty to children, duly incorporated under the laws of the state, or and an association, agency, society or institution which meet the following requirements: (1) incorporated under the laws of this state; (2) actually have its place of business or home within the state; (3) approved, visited, inspected and supervised by the state board of charities; or (4) which shall submit and consent to approval, visitation, inspection and supervision of the state board of charities as to any authority, power, act or acts performed or to be performed under this article.

§ 157. (1.) **The board.** A board of child welfare when established under this article shall:

a. Meet and reorganize within ten days after its establishment by resolution of the board of supervisors and fix the dates for its future meetings, which shall be held at least monthly.

b. Elect a chairman, and a vice-chairman and appoint a secretary of the board, who shall hold office subject to the pleasure of the board.

c. Establish an office and, when specific appropriations have been made for such purposes, employ such officers and employees as may be provided for by the board of supervisors of a county.

d. Establish rules and regulations for the conduct of its business which shall provide for the careful investigation of all applicants for relief or allowances and the adequate supervision of all persons receiving relief or allowances. Reports must be filed at least quarterly by the agents, visitors or representatives of the board, with respect to relief or allowances granted by the board.

e. Render annually to the board of supervisors, a verified account of all moneys received and expended by them, or under their direction, and of all their proceedings in such manner and form as may be required by the board; if required by the board of supervisors more frequent reports must be given covering fractional parts of a year.

f. Submit annually to the proper fiscal authorities of the county an estimate of the funds required to carry out the purposes of this article; such estimate shall be furnished before the annual meeting of the board of supervisors for appropriating moneys and levying taxes.

g. Be subject to the supervision, inspection and visitation of the state board of charities, and make such reports as the state board of charities may require. Any person who has knowledge that relief is being granted in violation of the requirements of this article, may file a verified complaint, in writing, with the state board of charities, setting forth the particulars of such viola-

tion, and said state board of charities shall have power, after proper investigation, to make such orders as it may deem just and equitable and such order shall be complied with by the board.

The state board of charities may visit children for whose care and protection the board is responsible, and may order the return of children to the board if found to be unsuitably cared for.

h. Each allowance or grant of relief shall be made by the affirmative vote of at least three members of the board present at any meeting, and may be increased, diminished or totally withdrawn in the discretion of the board.

j. An application for allowance or grant of relief may be made directly to the board or to any member.

k. A full and complete record shall be kept in every case coming either directly or indirectly within the jurisdiction of the board; such record to be available to the proper authorities of county interested therein.

2. Power and duties. The board may

a. Grant an allowance to any dependent widow or to any mother whose husband is an inmate of a state institution for the insane or confined under a sentence of two years or more of actual confinement in a state prison, or to any mother whose husband is totally incapacitated by physical disability or ailment. No such allowance shall be made to any person unless the board of child welfare deems such person to be a proper person mentally, morally and physically to care for and bring up the child or children for whose benefit such allowance is made. No such allowance shall be made to any person unless such person shall have been for at least one year prior to application therefor a resident of the county wherein she applies for an allowance and is either a citizen of the United States or the mother of a child or children born in the United States whose father has been a resident of the state for at least two years and has declared his intention to become a citizen of the United States within a period of five years immediately preceding his decease or commitment.

An allowance made by the board shall not be for a longer continuous period than six months without renewal, which allowance may be continued from time to time at the same or different amounts, for similar periods or less, either successively or intermittently or may be revoked at the pleasure of the local board of child welfare.

Before granting an allowance the board shall not only determine that the mother is a suitable person to bring up her own children and that aid is necessary to enable her to do so, but further that if such aid is not granted the child or children must be cared for in an institutional home.

Such an allowance or allowances shall not exceed the amount or amounts which it would be necessary to pay to an institutional home for the care of such child or children.

* So in original. [No paragraph "i".]

b. Receive as public charges upon the county, city or town all dependent children who require and are legally entitled to public support in said county, city or town outside their own homes.

c. Receive as public charges upon the county any children committed to it by a court or magistrate of competent jurisdiction.

d. Provide for the mental or physical examination and, if required, the necessary medical or surgical care of any child who may come under the care or supervision of the board and whom the board has reason to suspect of mental or physical defect or disease, such examination to be made by physicians or and surgeons designated by the board.

e. Place children received as public charges in a home or an institution of the same religious faith as that of the child, when practicable, either directly or through a duly authorized association, agency, society or institution.

The provision herein as to the religious faith of the child shall be interpreted literally, so that in the care, custody, protection and religious welfare of the child his religious faith shall be preserved and protected by the board.

f. Ascertain the financial ability of the parents or custodians of the children who become public charges and collect toward the expense of such children's care such sum as the parent or custodian are able to pay.

g. Collect from parent or custodian whose children have been committed to the board by any court or magistrate such sums as they are ordered by such court or magistrate to pay for the maintenance of such children. The board shall also report wilful failure to comply with such order to said court or magistrate for action against such parent or custodian.

h. Upon receipt of an application for relief or an allowance immediately notify the supervisor of the town or the commissioner of charities, welfare or other like officer in the city, where the applicant for allowance or subject of relief is stated to reside.

i. Enter into contracts with duly authorized associations, agencies, societies or and institutions to receive and care for children entrusted to them by the board.

j. All the powers and duties of the superintendent of the poor and the overseers of the poor and of the commissioners of charities, welfare, and all other officers exercising like functions in relation to dependent children, are hereby vested solely in the board. As soon as the said board shall officially inform the county superintendent of the poor, the overseers of the poor, and the city commissioners of charities, welfare, and all other officers exercising like functions that it is organized and prepared to carry out its duties as herein prescribed, all such officers and departments shall thereupon deliver to said board all the records of the children under their care.

3. General. (a) Upon public announcement by the board that it has begun to exercise the authority and duties vested in it by this article, all children then in an institution other than a public controlled one, or and all children in a home through commitment

or placement by any poor law official, court or magistrate shall, ipso facto, come under the jurisdiction of this board, and have the status of children committed by the board to such respective institution or home. And no such child or any child subject to the provisions of this article and who is in a home or an institution shall be discharged, transferred or changed therefrom by any association, agency, society or institution having to do with children in this state, whether or not such association, agency, society or institution is approved and now visited, inspected and supervised by the state board of charities, except upon notice to and order of the board.

(b) Commitment of a child other than to a public controlled institution, or the placement of a child in custody other than its parents, must be made to a duly authorized association, agency, society, institution, or in a home, or with a person, of the same religious faith as that of the child, when practicable.

This provision as to religious faith shall be interpreted literally so that in the custody, care and protection of the child, his religious faith shall be preserved and protected by the board.

An association, agency, society or institution authorized and empowered to act herein shall be "a duly authorized association, agency, society or any institution" as defined in this article.

The home in which a child is placed by the board shall be subject to visitation, inspection and supervision as the state board of charities may provide.

No person shall place or accept for placement any child except upon notice and order of the board of the county or city wherein the child is then domiciled.

No corporation, association, agency, society or institution unless duly authorized, as defined in this article, shall place or accept for placement any child, except upon notice and order of the board of the county or city wherein the child is then domiciled.

The power and authority given to corporations, associations, agencies, societies and institutions under general laws and to corporations, associations, agencies, societies and institutions in special charters shall not be abrogated or nullified, except as provided in this article.

(c) Every person, corporation, association, agency, society or institution who shall release or place out a child within or without this state shall keep and preserve a record of the full name, and the actual or apparent age of such child, the names and actual residence of its parents or lawful custodians so far as known and the name and address of the person, corporation, association, agency, society or institution with whom such child is released or placed. If such person, corporation, association, agency, society, or institution shall subsequently remove such child from the custody of the person, corporation, association, agency, society or institution with whom it was released or placed, the fact of such removal and the disposition made of such child shall be entered upon such record. A duplicate copy of the record in the first instance and the subsequent removal or removals of such child

shall be filed within ten days therefrom, with the state board of charities. Failure to comply with this section shall be a misdemeanor.

§ 158. (1) **Appropriations and limitations for purposes of article.** The board of supervisors of a county, to which this article is applicable, shall annually appropriate and make available for the board of child welfare and include in the tax levy of such county such a sum as, in their discretion and judgment, may be needed to carry out the provisions of this article, but should the sum so appropriated be expended or become exhausted, during the year and for the purposes for which it was appropriated, by reason of extraordinary and unanticipated emergencies or conditions, additional sums may be appropriated by such boards as occasion demands to carry out the provisions of this article, which, in counties, such additional appropriations shall be paid from funds in the county treasury, but, should there be no such funds available therefor, the county treasurer shall borrow a sufficient sum to pay such appropriations in anticipation of taxes to be collected therefor; it is further provided that no board of child welfare shall expend or contract to expend under the provisions of this article or otherwise, any public moneys not specifically appropriated as herein provided; the board of supervisors of any county may determine, as provided in section one hundred and thirty-eight of the poor law, whether or not the actual expense for the relief of widowed mothers and their children and of dependent children under this article shall be a charge upon the county or upon the respective city or and towns thereof. Each such board of child welfare shall, from time to time, audit and cause to be paid all expenses for administration and the wages and salaries of its employees from moneys appropriated for the purpose.

(2) **Penalties.** A person who shall procure or attempt to procure, directly or indirectly, any allowance for relief or other benefit under this article, for or on account of a person not entitled thereto, or member, officer or employee of the board, or shall knowingly or willfully pay or permit to be paid any allowance or other benefit to a person not entitled thereto, shall be guilty of a misdemeanor.

§ 159. **Appeals.** Any person aggrieved by any order of the board under the provisions of this article, may, within twenty days after the date and entry of such order appeal from any order of the board to the supreme court in the county, in which the "board" is located. Such appeal may be heard by a justice at chambers or at special term.

Upon such appeal the justice shall make such order of notice to those interested as he shall deem necessary. Copies of such notices shall be served upon such persons, associations, corporations, agencies, societies or and institutions as the court may direct and upon the board of child welfare.

§ 159-a. **Effect of decision as to validity of article.** If any provision of this article be held unconstitutional or otherwise in-

valid, such holding shall be deemed in no wise to affect the validity or impair any provision of article seven-a of this chapter.

§ 2. All existing boards of child welfare including those established by special acts in the counties of Dutchess and Suffolk are hereby continued. Existing boards continued.

§ 3. This act shall take effect on the first day of September, nineteen hundred and twenty-two. In effect Sept. 1, 1922.

CHAPTER 547

AN ACT establishing children's courts, defining their jurisdiction, power and duties, and regulating procedure therein.¹

Became a law April 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

ARTICLE I.

ORGANIZATION; JURISDICTION.

- Section 1. Short title; application.
2. Definitions.
3. Establishment of children's courts.
4. Judge.
5. Jurisdiction.

ARTICLE II.

PRELIMINARY PROCEDURE.

- Section 10. Petition.
11. Issuance of summons.
12. Service of summons.
13. Arrest; transfer from other courts.
14. Procedure.

ARTICLE III.

HEARINGS; ADJUDICATIONS.

- Section 20. Custody of child; release.
21. Place of detention.
22. Hearing; judgment.
23. Mental and physical examinations; treatment.
24. Modification, setting aside or vacating of judgment.
25. Religion of custodial persons and agencies.
26. Placements; commitments; records.
27. Powers and jurisdiction of other courts.

ARTICLE IV.

PERSONNEL; DUTIES.

- Section 35. Officers and other employees; appointment, et cetera.
36. Powers and duties of probation officers.
37. Co-operation of officials and organizations.

¹ Enacted under authority of constitution, art. 6, § 18, as amended 1921.

ARTICLE V.

GENERAL PROVISIONS.

- Section 40. Compensation and liability for support and care.
41. Expenses and disbursements.
42. Judge may hold court in any place in county; may appoint commissions.
43. Appeals.
44. Seal; rules; forms.
45. General provisions; court records; construction.
46. Existing children's courts continued; adoption of act in certain counties.
47. Appropriations; when courts to function.
48. When act takes effect.

ARTICLE I.

ORGANIZATION; JURISDICTION.

- Section 1. Short title; application.
2. Definitions.
3. Establishment of children's court.
4. Judge.
5. Jurisdiction.

Section 1. **Short title; application.** This act shall be known as the "children's court act," and shall apply to all counties of the state except the counties of New York, Kings, Bronx, Queens and Richmond, Chautauqua, Monroe and Ontario and except that part of the county of Erie outside of the city of Buffalo and that part of the county of Onondaga outside of the city of Syracuse unless made applicable thereto under the provisions of section forty-six of this act.

§ 2. **Definitions.** 1. Whenever the word "court" is used without modification in this act it shall refer to the children's court; the term "judge" when used in this act shall refer to the judge of the court established by this act; the word "child" shall mean a person less than sixteen years of age; the word "adult" shall mean a person sixteen years of age or older; the word "child" or "children" may be held to mean one or more children, and the word "parent" or "parents" may be held to mean one or more parents, when consistent with the intent of this act.

2. The words "delinquent child" shall mean a child under sixteen years of age (a) who violates any law or municipal ordinance or who commits any act which, if committed by an adult, would be a crime not punishable by death or life imprisonment; (b) who is incorrigible, ungovernable or habitually disobedient and beyond the control of its parents, custodians or other lawful authority; (c) who is habitually truant; (d) who, without just cause and without the consent of his parent, parents, guardians or other custodian, deserts his home or place of abode; (e) who knowingly engages in any occupation which is in violation of law; (f) who frequents any place the existence of which is in violation

of law; (g) who habitually uses obscene or profane language; or (h) who so deports himself as to wilfully injure the morals or health of himself or others.

3. "Juvenile delinquency" is the commitment by a child under the age of sixteen years of any of the offenses enumerated in the foregoing definition of a delinquent child.

4. The words "neglected child" shall mean a child under sixteen years of age (a) who is without proper guardianship; (b) who is abandoned; (c) whose parents, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child; (d) who is under unlawful or improper supervision, care, custody or restraint by any person; (e) who wanders about without lawful occupation or restraint; (f) whose parents, guardian or custodian neglect and refuse, when able to do so, to provide necessary medical, surgical, institutional or hospital care for such child; (g) who engages in any occupation for engaging in which an adult may be punished by law or is found in any place for permitting which an adult may be punished by law; (h) who is in such condition of want or suffering or is under such improper guardianship or control as to injure the morals, or and health of himself or others.

5. The words "a duly authorized association, agency, society or and institution" shall mean a humane society or and a society for the prevention of cruelty to children, duly incorporated under the laws of this state, or and an association, agency, society, or institution meeting the following requirements: (1) incorporated under the laws of this state; (2) actually have its place of business or home within the state; (3) approved, visited, inspected and supervised by the state board of charities; or and (4) which shall submit and consent to approval, visitation, inspection and supervision of the state board of charities as to any authority, power, act or acts performed or to be performed under this act.

6. An "abandoned child" is a child under the age of sixteen years who is deserted in any place by both parents, or by the parent having his custody, or by other persons lawfully charged with his care, and left (1) in destitute circumstances; or (2) without proper food, clothing or shelter.

7. A "destitute child" shall mean a child actually or apparently under the age of sixteen years who through no neglect on the part of its parent or custodian is destitute or homeless, or in a state of want or suffering due to lack of sufficient food, clothing, shelter, medical or surgical care.

8. The words "place," "placed" or and "commitment," "committed" shall include "replace," "replacements," "recommit" and "recommitments."

9. The words "a home" shall include a family boarding home and or a family free home.

§ 3. **Establishment of children's courts.** A children's court is hereby established in each county of the state, except as limited by section one of this act.

§ 4. **Judge.** In every county except those to which the provisions of this act are specifically made not applicable, the electors

of the county shall, at the next general election following the taking effect of this act, choose a judge of the children's court of such county who shall serve for such term and be paid such salary and whose successor or and successors shall be chosen in the same manner as the law provides for a county judge; provided, however, that where it shall appear from a certificate filed with the secretary of state by the county judge, or judges, or by a majority of them and the board of supervisors of such county on or before the first day of August preceding such election that the judicial business of such county will not in their opinion justify the election of a judge of the children's court and that the county judge or judges or special county judge of such county already in office can adequately perform the duties of judge of the children's court in addition to the duties already imposed by law, no such election shall be held in such county, and in such case the county judge or judges or such special county judge shall perform the additional duties herein conferred.

In counties where a judge of the children's court is not elected and where the county judge sits as judge of said court, such county judge shall, in consideration of the additional duties herein imposed upon him, be paid by the county, compensation in addition to his regular salary, as follows: in counties having, according to the last federal or state census or enumeration, fifty thousand inhabitants or less, five hundred dollars; having more than fifty thousand and not more than one hundred thousand inhabitants, seven hundred and fifty dollars; having more than one hundred thousand and not more than one hundred and fifty thousand inhabitants, one thousand dollars; having more than one hundred and fifty thousand inhabitants, one thousand five hundred dollars.

If there be more than one county judge in any county in which no judge of the children's court is to be elected, as above provided, such judges may, by vote or agreement, designate or assign one of their number to be the judge of the children's court, and such designation or assignment shall be for the full term, or remainder of term, for which he was elected or appointed. Whenever a judge is thus assigned two certificates of such assignment shall be issued by the judges making the same, one of which shall be given to the judge thus designated or assigned, and the other shall be filed with the county clerk. Any judge so designated or assigned may, upon filing a formal request with his colleagues, be relieved of such assignment. In the absence or disability of the judge of the children's court, a county judge may preside or act in his stead, and in case of the inability of the latter to act, the surrogate, if there be one in such county, may serve temporarily as judge of the said court.

§ 5. **Jurisdiction.** 1. Children. The children's court in each county shall have within such county exclusive original jurisdiction of all cases or proceedings involving the hearing, trial, parole, remand or commitment of children actually or apparently under the age of sixteen years for any violation of law, and in all cases involving juvenile delinquency; children who are material wit-

nesses, as provided by law; children who are mental defectives, as provided by law; improper guardianship, or neglected children, as provided herein. Subject to the limitations herein provided, the court also shall have jurisdiction in proceedings to determine the question of the rightful custody of children whose custody is subject to controversy, as related to their immediate care.

The "court" shall have like jurisdiction and authority as is now conferred on "county courts" as concerns "adoption" or and "guardianship."

2. Adults. Whenever the welfare of a child is involved, the children's court in each county shall have within such county exclusive original jurisdiction, subject to the jurisdiction of a court of record in a civil action or proceeding, to inquire into, hear and determine the liability of any person who abuses, neglects or wilfully fails to provide for the proper maintenance of a wife or and child; of any person charged with abandonment or non-support of a wife or and child; of any parent of any child committed pursuant to any provision of law, or of any other person required by law to support or maintain such a child.

And the court may take evidence in any such hearing or proceeding and may render judgment thereon. If judgment be rendered affirming such liability, the court may examine into the ability of any such person or persons adjudged liable to pay for the maintenance, in whole or in part, of such wife or child, and if satisfied that such person is able to contribute toward their support, may, by order, require of any such person the weekly payment toward their maintenance or support of such sum of money and in such manner as the court shall deem fair and equitable. If the sum paid shall be for the maintenance of a child committed by the court, it must be credited to the agency, association, society, or and institution, or to the city, town or county or state maintaining the child.

a. Any violation of any order made pursuant to the provisions of this section (five) shall be punishable as a misdemeanor as provided by law, but the court may, in its discretion, proceed with and adjudicate upon it as a contempt of court.

b. Proceedings under this subdivision may be instituted by a duly authorized agency, association, society or and institution or and by an interested party or on the court's own motion, and a reasonable opportunity to appear shall be afforded the respondent; and to secure or to compel the attendance of any necessary person the court may issue a summons or in a proper case a warrant or other process. The proceeding shall, however, be in the nature of a civil proceeding and shall not require a judgment of "disorderly person" to authorize the making of an order; and such order when made shall be enforceable and subject to execution in all respects as provided by title eight of part six of the code of criminal procedure respecting the support of poor persons.

3. The court shall have exclusive original jurisdiction in the hearing and determination of bastardy cases, without associating an additional judge or justice, and shall have jurisdiction to

issue a warrant and make or withhold an order of filiation authorized by law in such proceedings or make any other or further order pertaining thereto as provided by law.

4. Except as herein otherwise provided, the court shall have original jurisdiction to hear, try and determine all cases less than the grade of felony, which may arise against any parent or other adult responsible for or who contributes to the delinquency of or neglects any child; or who is charged with any act or omission in respect to any child, which act or omission is a violation of any state law or municipal ordinance.

5. The court shall also have exclusive original jurisdiction in all cases against persons charged with a failure to obey any order of the court made in pursuance of the provisions of this section.

6. The court shall have power to punish, in the manner and subject to the limitations prescribed by article nineteen of the judiciary law, any person guilty of a criminal contempt.

The jurisdiction herein given to children's courts shall in no wise be deemed to include any matter or proceeding involving alone the religious faith of a child, other than as herein provided, or matters or proceedings having to do with separation or and divorce or any matter or proceeding involving the property rights of children or and adults over and in which the surrogate or and supreme courts have jurisdiction; nor shall it impair the jurisdiction conferred on the supreme court, relating to mental deficiency.

ARTICLE II.

PRELIMINARY PROCEDURE.

Section 10. Petition.

11. Issuance of summons.
12. Service of summons.
13. Arrest; transfer from other courts.
14. Procedure.

§ 10. **Petition.** The parent or custodian of any child, a child welfare board or any public official charged by law with the care of the poor, or and a duly authorized agency, association, society or and institution or and any interested person having knowledge or information that a child is without proper guardianship or is a neglected or a delinquent child or otherwise within the jurisdiction of the court may institute a proceeding by filing with the court a petition verified by affidavit, stating such facts as bring the child within the jurisdiction of the court, and praying the court for action in conformity with the provisions of this act. The title of the proceeding shall be "Children's Court, County of, in the matter of, a child under sixteen years of age." The petition shall include the name and residence of the child and of the parents, if known to the petitioner, or the name and residence of the person having the guardianship, custody, control or supervision of such child, if the same be known to the petitioner, or shall set forth that they are unknown if that be the fact.

§ 11. **Issuance of summons.** Upon the filing of a petition the judge may, either forthwith or after investigation, cause a summons, signed by him or by the clerk of said court, to be issued, requiring the child and the parent or parents, custodian or other persons having control of the child, to appear in court at a time and place named, to show cause why such child should not be dealt with according to the provisions of this act. Whenever it shall appear to the judge that an order addressed to an adult is necessary for the welfare of such child, similar summons shall be issued and served upon such adult if he is not already in court.

§ 12. **Service of summons.** Service of summons shall be made by the delivery of a true and attested copy thereof to the person summoned. If after reasonable effort personal service shall not have been made, such substituted service, by publication or otherwise, as the judge may order, shall be sufficient. Service of said summons must be made at least twenty-four hours before the time stated thereon for such appearance, but the judge, if requested by a parent, or in case there is no parent, by the person having the custody of the child, shall not proceed with the hearing earlier than three days after the service.

If the person cited as herein provided shall fail without reasonable cause to appear and abide the order of the court, he may be proceeded against as for contempt of court. In case the summons cannot be served or the parties served fail to obey the same, and in any case when it shall be made to appear to the judge that such summons will be ineffectual, or that the welfare of the child requires that the parent, custodian or the child shall be brought forthwith into the custody of the court, a warrant may be issued on the order of the court either against the parent or other person having custody of the child, or with whom the child may be. The sheriff or other lawful officer of the county shall serve all papers or and warrants, as directed by the judge. The expense incurred in serving any papers shall be a county charge.

§ 13. **Arrest; transfer from other courts.** Nothing in this act shall be construed as forbidding the taking into custody with or without a warrant of any child as now or hereafter may be provided by law; or as forbidding the issuing of warrants as provided by law. Whenever a child less than sixteen years of age is brought before any magistrate in the county such magistrate shall transfer the case to the juvenile court, and direct that the child be forthwith delivered to said court. All papers and processes relating to the case in the hands of such magistrate shall be forthwith transmitted to the court and shall become part of its records. The court shall thereupon proceed to hear and dispose of such cases in the same manner as if the proceedings had been instituted in the court upon petition as hereinabove provided. Between the time of the arrest of such child and its appearance before the court, such child shall, if not released, be detained subject to the orders of the court as hereinafter provided.

§ 14. **Procedure.** Where the method of procedure in a case or proceeding in which the court has jurisdiction is not provided in

this act, such procedure shall be the same as provided by law, or and by rules formally adopted by the court within the scope of this act.

ARTICLE III.

HEARINGS; ADJUDICATIONS.

Section 20. Custody of child; release.

21. Place of detention.
22. Hearing; judgment.
23. Mental and physical examinations; treatment.
24. Modification, setting aside or vacating of judgment.
25. Religion of custodial persons and agencies.
26. Placements; commitments; records.
27. Power and jurisdiction of other courts.

§ 20. **Custody of child; release.** If it appears from the petition that the interest of justice requires the immediate apprehension of the child, the judge may endorse or cause to be endorsed upon the summons an order that the officer serving the same shall at once take such child into custody or he may issue a warrant as provided by law.

In the case of any child who has been taken into custody, the court may discharge such child in accordance with law, or pending the final disposition of any case, such child may be released on bail or in the custody of a parent, the guardian or other person or a duly authorized agency, association, society or and institution having it in charge or may be placed in the custody of a probation officer or a duly authorized agency, association, society or and institution or other person appointed or designated by the judge, to be brought before the court at the time specified. When not released as herein provided, such child, pending the hearing of the case, shall be detained in such place of detention as is hereinafter provided.

§ 21. **Place of detention.** No child coming within the provisions of this act shall be placed in or committed to any prison, jail, lock-up, or other place where such child can come in contact at any time or in any manner with any adult convicted of crime or under arrest and charged with crime. Unless the county shall have provided suitable and permanent accommodations for the detention of children held for hearing or as a witness, the court or the judge, for the purpose of this act, may arrange for the board of such children temporarily in a private home or in the custody of some fit person, subject to the supervision of the court, or the court or judge may arrange by order with any one or more "duly authorized associations, agencies, societies or institutions" maintaining a suitable place of detention for children in said county to provide temporary care in such place of detention for any child detained.

A reasonable sum shall be appropriated by the board of supervisors of the county for the care of such children, so detained by the court.

§ 22. Hearing; judgment. Upon the return of the summons or other process or after any child has been taken into custody, and at the time set for the hearing, the court shall proceed to hear and determine the case in a summary manner. The court may adjourn the hearing from time to time and inquire into the habits, surroundings, conditions and tendencies of the child. At any stage of the proceedings the judge may, in his discretion, appoint any suitable person to be the guardian ad litem of the child for the purposes of the proceeding.

The court, if satisfied by competent evidence, may adjudicate the child to be delinquent, neglected or without proper guardianship, and render judgment, complying with the provisions herein as to the religious faith of the child as follows:

(a) Suspend sentence.

(b) Parole or and place the child on probation to remain in his own home or in the custody of a relative or a duly authorized agency, association, society or and institution, or and other fit person, subject to the supervision of the probation officer and the further orders of the court; or

(c) Commit the child to the care and custody of a suitable institution maintained by the state or any subdivision thereof, or and to the care and custody of a duly authorized association, agency, society or institution.

(d) Continue the case and place the child in its own home or in the custody of a relative or a "duly authorized association, agency, society or institution," for a certain designated period under order of the court;

(e) Discharge the child to the custody of the superintendent of the poor, child welfare board, or to such other officer, board or department as may be authorized to receive children as public charges, who shall provide for such child as in the case of a destitute child or as otherwise authorized by law; or

(f) Render such other and further judgment or make such other order or commitment as the court may be authorized by law to make.

§ 23. Mental and physical examinations; treatment. The court in its discretion, either before or after a hearing, may cause any child within its jurisdiction to be examined by a physician or psychologist appointed or designated for the purpose by the court. If it shall appear to the court that any child within its jurisdiction is mentally defective, he may cause such child to be examined as provided in the mental deficiency law and if found to be a mental defective as therein defined, he may commit such child in accordance with the provisions of said law. Whenever a child within the jurisdiction of the court and under the provisions of this act appears to the court to be in need of medical or surgical care a suitable order may be made for the treatment of such child in its home, a hospital or other suitable institution, and the expenses thereof, when approved by the court and duly audited, shall be a charge upon the state, the county or the proper subdivision thereof; but the court may adjudge that the person or per-

sons charged with the liability under the laws to support such child shall pay a part or all of the expenses of such treatment as provided in section forty of this act.

§ 24. **Modification, setting aside or vacating of judgment.** Any order or judgment made by the court in the case of any child committed, by virtue of any proceeding other than that of juvenile delinquency, may be vacated and set aside or modified, as provided by law. Any parent, guardian, or and a duly authorized agency, association, society or and institution, or and the next friend of any child who has been or shall hereafter be committed by the court to the custody of an institution, corporation, board, association, society or person, may at any time file with the court a petition verified by affidavit setting forth under what conditions such child is living, and that the application for the release of the child has been made to and denied by such institution, corporation, agency, association, society or person, or that such institution, corporation, agency, association, society or person has failed to act upon such application within a reasonable time. A copy of such petition shall at once be served upon such institution, corporation, association, agency, society or person, or and upon the superintendent of the poor, or such other officer, board or department having the custody of the child whose duty it shall be to file a reply to the same within five days. If, upon examination of the petition and reply, the court is of the opinion that a hearing should be had, it may, upon reasonable and due notice to all concerned, proceed to hear the facts and determine the question at issue, and may return such child to the custody of its parents or guardian or direct such institution, corporation, association, agency, society or person to make such other arrangements for the child's care and welfare as the facts of the case may require.

In any juvenile delinquency proceeding, the court may stay execution, set aside or arrest judgment, or grant a new trial or hearing, on any of the grounds authorizing any court of criminal jurisdiction so to do; provided, that this court may, in the exercise of its powers of protection over the child, make such an order regardless of whether a motion therefor was made before or after final judgment or commitment. The court may entertain an application to that effect by a duly authorized agency, association, society or and institution, or and by any interested person acting on behalf of the child, or may act on its own motion on giving proper notice to interested parties or to any agency, association, society or and institution having custody of the child.

The court may at any time during the progress of a proceeding arising under any provision of this act vacate any commitment previously made where it can be shown to the satisfaction of the court that a mistake of fact was made in adjudicating the child's religion; or may on its own motion or on application, after giving reasonable notice to interested parties and to the agency, association, society or and institution having custody of the child, proceed with judgment, consistent with the religion of the child, as if such erroneous commitment had not been made or make such other or further order as may to the court seem just.

The judge of said court shall have the power officially to visit any institution to which a child may be remanded or committed by the children's court of his county.

§ 25. **Religion of custodial persons and agencies.** Commitment of a child to an authorized agency, association, society or and institution, other than an institution supported and controlled by the state or a subdivision thereof, or the placement of a child in a family, a home or in the custody of a person other than that of its parents, or and guardianship given, or and adoption out, must be made to, or and with a person, persons, a family, a home, or and to or by, or through, a "duly authorized association, agency, society, or and institution," of the same religious faith as that of the child, when practicable. This provision shall be interpreted literally, so that in the care, protection, or and discipline of the child, his religious faith must be preserved and protected by the court.

If a child is committed, placed in custody, placed out, adopted or guardianship given to a person, in a home, or to an agency, association, society, institution other than one of its own religious persuasion and faith, the order so directing shall recite the facts to the effect there was no proper person, guardian, custodian, home, agency, association, society or and institution of its own religious persuasion and faith available and willing to accept the child.

This section shall not be construed, however, as to prevent the remanding of a child during the pendency of proceedings to a society for prevention of cruelty to children, to a county detention home, nor to the placing of a child in a hospital for necessary treatment. An association, corporation, agency, society or institution authorized and empowered to act herein shall be a "duly authorized association, agency, society or and institution" as defined in this act.

Any child placed or committed under order of the court shall be subject to visitation, inspection and supervision as the state board of charities may provide and require.

§ 26. **Placements; commitments; records.** No corporation, association, agency, society or institution shall release, place or commit or accept for placement or and commitment any child unless duly authorized as required and defined in this act.

No person shall release, place or commit or accept for placement or commitment any child, except upon order of the children's court of the jurisdiction or and the board of child welfare of the county or any city.

Other than children committed to a publicly controlled institution no child subject to the provisions of this act and who is in a family, home or institution shall be released, discharged, transferred or changed except upon order of the court.

Every person, corporation, association, agency, society or and institution who shall release, place out or replace a child within or without this state shall keep and preserve a record of the full name and the actual or apparent age of such child, the names and

address of its parent or lawful custodian so far as known and the name and residence of the person, corporation, association, agency, society or and institution with whom such child is released or and placed or and committed. If a person, corporation, association, agency, society or institution shall subsequently place, release or and remove such child from whence it was placed or released the fact of such removal and the disposition made of such child shall be entered upon such record. A duplicate copy of the record in the first instance and the subsequent removal or removals of such child shall be filed with the state board of charities within ten days therefrom. Failure to comply with the provisions of this section shall be punishable by law as a misdemeanor. The provisions of this section shall apply to children released, placed or committed to agencies, associations, societies or and institutions located outside this state.

This act shall be construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that as far as practicable they shall be treated not as criminals but as children in need of aid, encouragement and guidance.

The power and authority given to corporations, associations, agencies, societies or and institutions under general laws and to corporations, associations, agencies, societies or and institutions in special charters shall not be abrogated or nullified, except as provided in this article.

§ 27. **Power and jurisdiction of other courts.** Nothing in this act shall be held to deprive county courts, courts of special sessions, police courts and magistrate's courts from holding the same or concurrent jurisdiction with this court to hear and dispose of cases embraced within subdivisions four and five of section five of this act, which are pending in those courts when this act takes effect, but such cases may be transferred to the children's court for hearing and determination therein. Nothing herein shall be construed as abridging the jurisdiction of the supreme court, nor as abridging the authority of the supreme court, county court, or surrogate's court, to grant adoption, or to appoint guardians, as now provided by law.

ARTICLE IV.

PERSONNEL; DUTIES.

Section 35. Officers and other employees; appointment, et cetera.

36. Powers and duties of probation officers.

37. Co-operation of officials and organizations.

§ 35. **Officers and other employees; appointment, et cetera.** The judge shall have power, subject to competitive civil service, and as the board of supervisors may authorize.

(1) To appoint a clerk, clerks, stenographers and court attendants;

(2) To appoint a chief probation officer and other probation officers; provided, however, that the judge may appoint any agent, officer, or representative of a "duly authorized association, agency, society or institution as a volunteer probation officer to act either in a specific case or generally as the court may order, but no such volunteer probation officer shall be a chief probation officer or receive pay from public funds for his services;

(3) To appoint physicians who shall be duly licensed to practice medicine in this state and who shall make physical examinations of children as the "court" may order;

(4) To appoint physicians or psychologists who shall be qualified examiners as defined by the mental deficiency law and who shall make such mental examinations of children as the court may order;

(5) To discharge, subject to civil service, any clerk, stenographer, court attendant, probation officer, physician, psychologist or other employee at any time.

The clerk, probation officers and other employees other than physicians and psychologists shall be residents of the county prior to date of appointment, and shall continue to reside therein during the period of such employment.

The officers, clerks and assistants of the various county courts shall, by virtue of holding such offices, hold like official positions respectively in such children's courts. But nothing contained herein shall forbid the appointment of additional officers and employees, when necessary. Notice of such appointment or discharge and the date thereof shall be given in writing by the judge to the board of supervisors at its next regular meeting after such appointment or discharge. The compensation of every such clerk, stenographer, court attendant, probation officers and physician, shall be fixed by the board of supervisors. All officers and employees in any court affected by this act in office when this act take effect shall continue to hold office until the expiration of their respective terms.

§ 36. **Powers and duties of probation officers.** The chief probation officer shall, under the direction of the court, have supervision of the work of all other probation officers. It shall be the duty of a probation officer to make such investigation before, during, and after the hearing of any case as the court may direct and to report his finding to the court. He shall visit and keep himself informed as to the conduct and condition of each child under his supervision and shall make report thereof to the court. He shall keep accurate accounts of all moneys or other articles collected or taken from the persons under his supervision and shall make report thereof to the court. Probation officers for the purposes of this act shall have the powers of peace officers, and all provisions of the general laws of the state relating to probation, so far as they are applicable, shall apply to cases coming within the provisions of this act.

§ 37. **Co-operation of officials and organizations.** It is hereby

made the duty of every county, town or municipal official or department in each county to render assistance and co-operation within his or its jurisdictional power to further the objects of this act. All institutions or other agencies to which any child coming within the provisions of this act may be sent are hereby required to give such information concerning such child to the court as the judge may require for the purposes of this act. The court is authorized to seek the co-operation of all societies or organizations, public or private, having for their object the protection or aid of children, to the end that the court may be assisted in every reasonable way to give the child within its jurisdiction such care, protection and assistance as will best conserve its welfare.

ARTICLE V.

GENERAL PROVISIONS.

Section 40. Compensation and liability for support and care.

41. Expenses and disbursements.

42. Judge may hold court in any place in county; may appoint commissions.

43. Appeals.

44. Seal; rules; forms.

45. General provisions; court records; construction.

46. Existing children's courts continued; adoption of act in certain counties.

47. Appropriations; when courts shall function.*

48. When act takes effect.

§ 40. **Compensation and liability for support and care.** When ever a child is committed under the provisions of this article to a duly authorized association, agency, society, or and institution or to any person other than his parent or custodian, compensation for his support and care, if committed as a " delinquent " child, shall be unless otherwise agreed a charge upon the county, and if committed as an " abandoned " or " neglected " child and retained in accordance with the rules of the state board of charities, shall be unless otherwise agreed a charge upon the county or upon the tax district in which he has a settlement as may have been determined by the board of supervisors. The court may, after issuance and service of an order to show cause upon the parent or other person having the duty under the law to support such child, adjudge that such parent or other person shall pay in such manner as the court may direct such sum as will cover in whole or in part the support of such child, and wilful failure to pay such sum punishable by law as a misdemeanor may, in the discretion of the court, be punished as for a criminal contempt of court. When a person liable to such payment on order, as herein provided, is before the court in the proceeding relating to the commitment a formal order to show cause may be dispensed with in the discretion of the court.

* So in original. [Does not conform to section heading.]

§ 41. **Expenses and disbursements.** The " court " shall annually submit to the board of supervisors of the county an estimate of the funds required to carry out the purposes of this article. Such estimate shall be furnished at such time before the annual meeting for appropriating moneys and levying taxes as may be specified by the board. As soon as the " court " is ready to function it shall notify in writing the board of supervisors and submit in writing a budget for the " court " to function until the next fiscal year of the county. The compensation of officers and employees and the expenses and disbursements of the court shall be within the appropriation made by the board of supervisors.

The " court " shall submit to the board of supervisors annually (1) a report of its work during the year; (2) a separate report of all fines or moneys received and turned over to the county treasurer or other county fiscal officer; (3) and a report of all expenditures under its appropriation.

§ 42. **Judge may hold court in any place in county; may appoint commissions.** The judge may arrange to hold court at such times and places in the county as in his opinion seems desirable, but such sessions shall not be held in conjunction with sessions of the county court at which cases against adults are heard or at which business other than that provided for by this act is transacted. He may, in his discretion, appoint a commission to take testimony or receive evidence in the manner and under such limitations as to the court may seem fit, and report the same to the court for its determination. Such testimony or evidence may be received by the court with the full force and effect governing the receiving or taking of evidence or testimony by commission. The reasonable expenses of such commission, when approved by the court, and duly audited, shall become a charge against the county.

§ 43. **Appeals.** An appeal may be taken from any final order or judgment of the court to the appellate division of the supreme court of the respective department within thirty days after the entry of said order or judgment, except that an appeal may be taken from a final order requiring payment for support within thirty days after the entry of such an order to the supreme court in the county in which the " court " is located and may be heard by a justice at chambers or at special term. If any such appeal shall be taken by the guardian ad litem appointed for a child by the court, the court may in its discretion grant an order to audit and may allow payment for the actual disbursements made by the said guardian ad litem for printing the papers necessary for taking the appeal. In appeals from this court a printed case on appeal or a printed brief shall not be required. When allowed by the judge and duly audited the said disbursements shall become a county charge, and shall be paid by the county.

§ 44. **Seal; rules; form.*** The " court " shall have an official seal, on which shall be engraved the arms of the state of New

* So in original. [Evidently should be "forms."]

York, and the words "Children's Court," together with the name of the county. All processes issued by the court shall be sealed with such seal and signed by the judge or the clerk of the court. The court shall have power to devise and publish rules to regulate the procedure in cases coming within the provisions of this act and for the conduct of all probation and other officers of the court in such cases. The court may devise and cause to be printed for public use such forms for records and for the various petitions, orders, processes, and other papers in the cases coming within this article as shall meet the requirements thereof.

§ 45. **General provisions; court records; construction.** In the hearing of any case coming within the provisions of this act the general public may be excluded and only such persons and a duly authorized agency, association, society or and institution admitted thereto as have a direct interest in the case. All cases in which children are directly involved or appear shall be heard separately and apart from the trial of cases against adults. A room separate and apart from the regular courtroom shall be provided for the use of the children's court, together with suitable quarters for the use of the judge, the probation officers and other employees of the court.

The court shall maintain a full and complete record of all cases brought before it. All records may be withheld from indiscriminate public inspection in the discretion of the judge, but such records shall be open to inspection by the parent, guardian, next friend or attorney of the child. Any duly authorized agency, association, society or and institution to which a child is committed may cause an inspection of the record of investigation to be had and may in the discretion of the court obtain a copy of the whole or a part of such record.

No adjudication under the provisions of this act shall operate as a disqualification of any child subsequently to hold public office or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no child shall be denominated a criminal by reason of such adjudication, nor shall such adjudication be denominated a conviction. Neither the fact that a child has been before the children's court for hearing, nor any confession, admission or statement made by him to the court or to any officer thereof while he is under the age of sixteen years, shall ever be admissible as evidence against him or his interests in any other court.

All provisions of the penal law or code of criminal procedure or other statutes inconsistent with or repugnant to any of the provisions of this act shall be considered inapplicable to the cases arising under this act. All statutes and laws, not inconsistent with these provisions, relating to courts exercising general jurisdiction shall apply with full force and effect, except as herein otherwise specifically provided. Chapter four hundred and eighty-nine, laws of nineteen hundred and fifteen, is hereby repealed.

§ 46. **Existing children's courts continued; adoption of act in certain counties.** The children's courts heretofore established in the counties of Chautauqua, Monroe, Ontario and in the city of New York and in the cities of Buffalo and Syracuse are hereby continued in full force and effect as if this act had not been enacted. Provided, however, that in any county, including the whole of any such city within its territorial limits, the board of supervisors may by a majority vote adopt this act as applicable to such county, outside the limits of such city.

If such affirmative action be taken by a board of supervisors in any such county on or before July first, nineteen hundred and twenty-two, then all the provisions of this act shall be in full force and effect in such county, limited, however, in its application, except as to process, to that part of the county outside of such city within its territorial limits. Thereafter any such board of supervisors in any year may by a majority vote determine as hereinabove provided and when such determination is had on or before July first in any year, the provisions of this act shall apply and the court begin to function on January first of the succeeding year, and if after July first and before January first in any year, the provisions of this act shall apply and the court begin to function one year from January first succeeding such affirmative action.

§ 47. **When courts to function; appropriations.** The children's court in any county established by the provisions of this act shall, where no judge is required to be elected by virtue of the provisions of this act, begin to function on the first day of November, nineteen hundred and twenty-two. In any county wherein it shall become necessary to elect a judge of the children's court, such judge notwithstanding any other provisions of law shall take office on the first day of December, nineteen hundred and twenty-two, and his term of office shall continue for the number of years after the first day of January, nineteen hundred and twenty-three, that constitutes a full term of a county judge in such county, and the court in such county shall begin to function on the first day of January, nineteen hundred and twenty-three. In a county where no newly elected judge is required, the judge or judges of such county shall meet at least thirty days before November first, nineteen hundred and twenty-two, and proceed to perfect plans necessary to carry into effect the provisions of this act, and the opening of the children's court on said November first, nineteen hundred and twenty-two. On the first day of December, nineteen hundred and twenty-two, the elected judge and the county judge or judges in the county where a judge is elected under the provisions of this act shall meet and proceed to perfect plans necessary to carry into effect the provisions of this act, and the opening of the children's court on said first day of January, nineteen hundred and twenty-three. The board of supervisors of a county is hereby authorized and required to appropriate and raise any moneys needed, and may if

necessary authorize the issue of bonds where other moneys are not available sufficient to comply with the provisions of this act.

§ 48. **When act takes effect.** This act shall take effect May first, nineteen hundred and twenty-two.

CHAPTER 548

AN ACT to amend the general business law, in relation to employment of engineers and land surveyors in connection with certain public work.

Became a law April 10, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 7
added to
L. 1909,
ch. 25,
§ 39k, as
added by
L. 1920,
ch. 775, and
renum-
bered and
amended by
L. 1921,
ch. 581,
§ 39-1, as
added by
L. 1920,
ch. 775, and
amended by
L. 1921,
ch. 581,
amended.

Section 1. Section thirty-nine-k of chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, constituting chapter twenty of the consolidated laws," as added by chapter seven hundred and seventy-five of the laws of nineteen hundred and twenty, and thus renumbered and amended by chapter five hundred and eighty-one of the laws of nineteen hundred and twenty-one, is hereby amended by inserting therein, after subdivision six, a new subdivision, to be subdivision seven, to read as follows:

7. Practice of professional engineering or land surveying, by an employee of a county or town, in the construction, improvement or maintenance of a county road or town highway; or by an employee of a county, city, town or village, in the construction, improvement or maintenance of any public work wherein the contemplated expenditure for the completed project does not exceed five thousand dollars

§ 2. Section thirty-nine-l of such chapter, as added by chapter seven hundred and seventy-five of the laws of nineteen hundred and twenty, and amended by chapter five hundred and eighty-one of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 39-1. **Public work.** Two years after this act goes into effect, no county, city, town or village or other political subdivision in the state, shall engage in the construction or maintenance of any public work involving professional engineering or land surveying for which plans, specifications and estimates have not been made by, and the construction and maintenance supervised by, a licensed professional engineer or land surveyor; provided, that ¹ this section shall not apply to the construction, improvement or maintenance of county roads or town highways; nor to any other public work wherein the contemplated expenditure for the completed project does not exceed five thousand dollars.

§ 3. This act shall take effect immediately.

¹Remainder of section formerly read: "nothing in this section shall be held to apply to such public work wherein the contemplated expenditure for the completed project does not exceed two thousand dollars."

CHAPTER 549

AN ACT releasing to the Catholic Foreign Mission Society of America, Inc., all the right, title and interest of the people of the state of New York which may have been acquired by them by escheat or otherwise in and to the estate of Ellen McGraw, deceased.

Became a law April 11, 1922, with the approval of the Governor. Passed, by two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All the estate, right, title, interest and property of the people of the state of New York, which may have been acquired by them by escheat or otherwise, in and to the property and estate of Ellen McGraw, deceased, who died intestate on or about the sixth day of January, nineteen hundred and sixteen, a resident of the county of Rensselaer, state of New York, is hereby released to the Catholic Foreign Mission Society of America, incorporated, maintaining a seminary at Ossining, New York.

Interest of
state re-
leased.

§ 2. Nothing in this act shall be construed to impair or affect the right in or to such property or estate of any heir at law, next of kin or creditor of the said Ellen McGraw, nor to warrant or insure by the state the title to the property so released or to any part thereof.

Rights not
affected;
title not
warranted.

§ 3. This act shall take effect immediately.

CHAPTER 550

AN ACT to amend the civil practice act, in relation to supplementary proceedings.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and seventy-five of the civil practice act is hereby amended to read as follows:

§ 775
amended.

§ 775. In what cases judgment creditor may maintain proceeding. In order to entitle a judgment creditor to maintain either of the special proceedings authorized by this article, the judgment must have been rendered for a sum not less than twenty-five dollars, upon the judgment debtor's appearance or personal service of the summons upon him, or substituted service of the summons upon him in accordance with section two hundred and thirty-one of this act; and the execution must have been issued out of a court of record; and either:

1. To the sheriff of the county where the judgment debtor, at the time of the commencement of the special proceedings, has a place for the regular transaction of business in person; or,

2. If the judgment debtor is then a resident of the state, to the sheriff of the county where he resides; or,

3. If he is not then a resident of the state, to the sheriff of the county where the judgment-roll is filed, unless the execution was issued out of a court other than that in which the judgment was rendered, and, in that case, to the sheriff of the county where the transcript of the judgment is filed; or,¹

4.² If the judgment was recovered in the municipal court of the city of New York, to a city marshal pursuant to sections one hundred and thirty and one hundred and thirty-five of the New York city municipal court code.

§ 2. This act shall take effect immediately.

CHAPTER 551

AN ACT to amend the conservation law, in relation to the auditing powers and duties of the comptroller.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1911,
ch. 847,
§ 465
amended.

Section 1. Section four hundred sixty-five^{1a} of chapter six hundred seventy-two of the laws of nineteen hundred and twenty-one, entitled "An act to amend the conservation law, in relation to the regulation of the flow of rivers and streams by reservoirs," is hereby amended to read as follows:

§ 465. **Funds of the board.** The proceeds of the sale of certificates of indebtedness or bonds issued pursuant to the provisions of this article, together with all other revenues of the board from whatever source derived, shall be deposited in such national or state bank or banks or trust company or trust companies at Albany or within the regulating district as are approved by the comptroller and the board, but before any such deposit is made the comptroller shall require from any such bank or trust company a bond as security for repayment of the same to be approved by him as to form, conditions and sufficiency of sureties, which shall provide for the repayment to such board or the comptroller upon demand for the money so deposited. All moneys received by the board under the provisions of this article, except from assessments levied to pay the cost of construction, shall constitute a fund to be known as the "general fund" of the district.

All moneys received from assessments levied to pay the cost of construction, together with such part of any surplus in the "general fund" as shall be determined by the board over and above the requirements for the construction, maintenance and operation of the reservoir, including the amount raised for a reasonable re-

¹ Word "or" new.

² Subd. 4 new.

^{1a} As added by L. 1915, ch. 662, and amended by L. 1921, ch. 672.

turn to the state, shall constitute a separate fund to be known as the "bond fund" and the same are hereby pledged to the payment of the bonds to be issued as in this article provided and the interest thereon, except when the total cost of construction is paid without the issuance of bonds, in which case the moneys applicable thereto shall be paid into the "general fund." The comptroller is authorized and directed to pay therefrom the principal and interest of said bonds as same mature and become payable by the terms thereof. In case the proceeds of the sale of bonds exceed the total amount of the cost and expense of such improvement payable by installments or in case there are funds derived from assessments or otherwise in excess of such total, such excess and all moneys in said bond fund shall be applied by the comptroller to the payment of the principal and interest of said bonds and to the purchase of the same in the open market when possible and while awaiting such purchase such excess shall be invested or kept at interest as sinking funds of the state of like nature are invested. If any moneys remain in said bond fund after all outstanding bonds have been paid up and redeemed, such moneys shall be paid into the general fund and may be used to pay the expenses of maintenance and operation and other expenses.

All payments from the general fund of the district shall be made by requisition of the board signed by the board or by the officer or officers thereof authorized by it so to do and audited² and countersigned by the comptroller.

The board shall keep in suitable books a complete record of its financial transactions, and the said books shall be audited from time to time by the state comptroller.

§ 2. This act shall take effect immediately.

CHAPTER 552

AN ACT to amend the conservation law, in relation to the polluting of waters.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section three hundred and twenty-five of chapter six hundred and forty-seven of the laws of nineteen hundred and eleven, entitled "An act relating to conservation of land, forests, waters, parks, hydraulic power, fish and game, constituting chapter sixty-five of the consolidated laws," as added by chapter three hundred and eighteen of the laws of nineteen hundred and twelve and amended by chapter four hundred and sixty-five of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

L. 1911,
ch. 647,
§ 325, as
added by
L. 1912,
ch. 312, and
amended by
L. 1920,
ch. 466,
amended.

§ 325. **Polluting waters.** Sludge, acid or refuse from oil works,

² Words "and audited" new.

sugar houses or other manufactories, ¹ sewage or any substance injurious to shellfish culture or fish, or which shall in any manner affect the flavor, odor, color, or sanitary condition of such shellfish so as to injuriously affect the sale thereof, or which shall cause any injury to the public and private shell fisheries of this state, shall not be placed or allowed to run into waters of the state in the marine district.

§ 2. This act shall take effect immediately.

CHAPTER 553

AN ACT to amend the second class cities law, in relation to temporary and funded debts.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 55,
§ 60, as
amended by
L. 1915,
ch. 428,
amended.

Section 1. Section sixty of chapter fifty-five of the laws of nineteen hundred and nine, entitled "An act in relation to cities of the second class, constituting chapter fifty-three of the consolidated laws," as last amended by chapter four hundred and twenty-eight of the laws of nineteen hundred and fifteen,^{1a} is hereby amended to read as follows:²

§ 60. **Temporary and funded debts.** (a) Temporary and funded debts of the city for the various purposes authorized and contemplated by this chapter and otherwise by law, may be created by ordinance of the common council, provided, however, that any such ordinance shall, before it takes effect, be submitted to and approved by the board of estimate and apportionment. Funded debts may be created for any municipal purpose, including the raising of funds to meet any deficiency in the collection of taxes heretofore or hereafter levied on property of another municipality arising from the refusal of such other municipality to pay such taxes on the ground that the property assessed for such taxes is exempt from taxation. The creation of funded and temporary debts and the refunding of existing debts, shall be subject to the provisions of the general municipal law, except as otherwise herein provided.

(b) Any bonds of the city heretofore issued, other than revenue bonds, and not payable in annual installments, may be refunded. No funded debt which is payable in annual installments shall be refunded, but provision shall be made for the payment of each installment and accrued interest in the year in which it shall become due by the insertion of the proper sum in the annual estimate for the year in question, but no such provision or any pro-

¹ Words "except refuse from the manufacture of oil from menhaden or other fish," omitted.

^{1a} Previously amended by L. 1910, ch. 602; L. 1911, ch. 60; L. 1913, ch. 43.

² Section materially amended.

vision for a tax need be made in the ordinance authorizing the bonds. Bonds issued to provide for the supply of water may, by the ordinance authorizing them, be made payable out of water rents received by the city.

(c) An ordinance authorizing bonds may provide that the bonds shall contain a recital that they were issued pursuant to the second class cities law, and such recital, when so authorized, shall be conclusive evidence of the regularity of the issue of said bonds and their validity.

(d) Every funded debt and bond issue shall mature in annual installments, commencing not more than two years from the date of the bonds. No such annual installment shall be more than fifty per centum greater than any other installment which matures in a previous year. The last installment shall mature not more than twenty years from the date of the bonds, or in the case of bonds issued for the following purposes, not more than forty years from their date, such purposes being: the supply of water, docks, wharfs and rights on navigable waters, fire-proof buildings (including the original furnishings and equipment thereof), land for parks, playgrounds and buildings or any one or more of such purposes. If bonds are issued for a purpose or purposes for which forty-year bonds may be issued, as herein provided, and also for a purpose or purposes for which only twenty-year bonds may be issued, as herein provided, then the last installment of such bonds shall mature in not exceeding thirty years, provided that not more than fifty per centum of the issue is for the latter class of purpose or purposes.

§ 2. This act shall take effect immediately.

CHAPTER 554

AN ACT to authorize the town board of the town of Cornwall, Orange county, to make an appropriation for assisting in defraying the expense of the celebration in such town of the opening of the Hudson river highway.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town board of the town of Cornwall, Orange county, at any regular or special meeting, may appropriate not more than five thousand dollars for the purpose of assisting in defraying the expense incident to the celebration in such town of the opening of the Hudson river highway, sometimes known as the Storm King highway, and sometimes known as route number three, from West Point to Cornwall. The money appropriated for such purpose shall be a town charge and shall be assessed, levied and collected the same as other town expenses, and shall be expended under the direction of the town board.

§ 2. This act shall take effect immediately.

CHAPTER 555

AN ACT to amend the general corporation law, in relation to change of name of nonstock corporations.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 22,
§ 66, as
added by
L. 1917,
ch. 177, and
amended by
L. 1919,
ch. 309,
amended.

Section 1. Section sixty-six of chapter twenty-eight of the laws of nineteen hundred and nine, entitled "An act relating to corporations generally, constituting chapter twenty-three of the consolidated laws," as added by chapter one hundred and seventy-seven of the laws of nineteen hundred and seventeen, and amended by chapter three hundred and nine of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 66. Change of name of business, transportation and membership corporations. Any corporation now existing or hereafter organized under the business corporations law, the transportation corporations law or the membership corporations law, or organized under any law repealed by either of those laws, may at any time change its name, provided such change has been authorized by vote of the holders of record of at least two-thirds of the entire capital stock issued and outstanding, irrespective of class or classes of stock; or if the corporation is one authorized to issue any or all of its shares without nominal or par value, then by vote of the holders of record of at least two-thirds of the entire number of shares issued and outstanding, irrespective of class or classes of shares; or if it is a nonstock corporation, then by vote of at least two-thirds of its members ¹ present, in person or by proxy, at the meeting. A vote required by this section shall be taken at a meeting of the stockholders, shareholders or members specially called for that purpose. The notice of the meeting shall state the time and place thereof, the present name of the corporation and the name it proposes to assume. Such notice shall be signed by the president or vice-president and the secretary and shall be published once a week for two successive weeks in a newspaper published and circulating in the county wherein its principal business office is located, or if it has no business office, in the county in which its principal corporate property is situated, and a copy of such notice shall on or before the day of the first publication be filed in the office of the secretary of state, and a copy shall on or before the first day of publication be either served personally on each stockholder, shareholder or member, or mailed to him at his last known postoffice address. The proposed name shall be reserved for such corporation by the secretary of state for a period of forty days from the date of the filing of the copy of the notice in his office. No action shall be taken by the stockholders, share-

¹ Words "unless such corporation has more than five hundred members, in which case by a vote of at least two-thirds of its members," omitted.

holders or members to change the name of the corporation unless there shall be presented to the meeting a certificate in duplicate of the secretary of state that the name which such corporation proposes to assume is not the name of any other corporation appearing on his index of corporations as authorized to do business under the laws of the state of New York, or a name which he deems so nearly resembling it as to be calculated to deceive.

No such corporation shall assume a corporate name which shall contain any word or words prohibited by law to a corporation of like character. Unless the corporation is a charitable or benevolent corporation, the name which the corporation proposes to assume shall have such word or words, abbreviation, affix or prefix therein or thereto, as will clearly indicate that it is a corporation as distinguished from a natural person, firm, association or co-partnership.

Upon the adoption of a resolution by the stockholders, shareholders or members to change the name of such corporation to the name proposed in said notice, the corporation shall file in the office of the secretary of state and in the office of the clerk of the county in which its principal business office is located, or if it has no business office, in the office of the clerk of the county in which its principal corporate property is situated, a certificate signed, verified and acknowledged by its president or vice-president and secretary. The verification shall be in the form required of a pleading in a court of record and the acknowledgment shall be in the form required of a deed to be recorded within this state. Such certificate shall state and set forth the resolution adopted by the stockholders, shareholders or members, the date of the adoption of such resolution, the date on which the certificate of incorporation was filed in the office of the secretary of state, the law under which the corporation was organized, the name under which the said corporation was originally incorporated, and any subsequent changes therein, and the name which the corporation desires to adopt. There shall be attached thereto the affidavits of service and publication of the notice of the meeting and the certificate of the secretary of state herein provided for. The corporation shall publish a copy of the resolution adopted at such meeting once a week for two successive weeks in the newspaper in which the notice of the meeting was published. The corporation shall file in the office of the secretary of state within forty days after the copy of the notice of meeting was filed in his office an affidavit of publication of the resolution herein required. On and after the day on which such affidavit is filed, the corporation shall be known by the name adopted in such resolution and by no other name.

Any action or special proceeding, civil or criminal, commenced by or against a corporation whose name is so changed shall not abate, nor shall any relief, recovery or other proceedings therein be prevented, impeded or impaired in consequence of such change of name. The plaintiff in the action or the party instituting the special proceeding, or the people, as the case requires, may at any time obtain an order amending any of the papers or proceedings

therein, by the substitution of the new name, without costs and without prejudice to the action or proceeding.

§ 2. This act shall take effect immediately.

CHAPTER 556

AN ACT to amend the charter of the city of Gloversville, generally.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1899,
ch. 275,
§§ 29, 30,
as amended
by L. 1914,
ch. 281,
amended.

Section 1. Sections twenty-nine and thirty of chapter two hundred and seventy-five of the laws of eighteen hundred and ninety-nine, entitled "An act to revise the charter of the city of Gloversville," as amended by chapter two hundred and eighty-one of the laws of nineteen hundred and fourteen¹ is hereby amended to read as follows:

§ 29. **Chamberlain, his powers and duties.** The chamberlain shall be collector and treasurer of the city of Gloversville. He shall receive, safely keep, and properly disburse, as hereinafter stated, all moneys belonging to said city or which may be collected from the taxable inhabitants and property thereof. He shall receive from all officers authorized to receive money, fees, fines, or penalties of said city all moneys so received by them or any of them. Suitable books shall be provided by the city for his use, in which he shall enter daily each and every item of his receipts and disbursements in such a manner as to exhibit the several amounts paid by or to him under each class of purposes or funds for which money shall be raised or may be raised by tax or collected for licenses, water rents, or otherwise in said city, with the name of each person, by, to, or from whom, and on what accounts, the same was received or paid. He shall also be the custodian of all securities, obligations and other evidences of debt belonging to said city. It shall be his duty personally to collect and receive at his office in said city all taxes and assessments laid upon said city by the common council thereof or by the board of supervisors of Fulton county. All moneys collected and received by him by virtue of his office shall be deposited in such bank or banks as shall be approved by the common council, board or department of said city to which such moneys belong; and all such moneys so deposited shall be subject only to the orders of the common council, board or department controlling the same, signed and countersigned by the officers of said common council, board, or department as provided by this act, and accepted by the chamberlain; excepting, however, that the moneys collected by him for state and county taxes shall be deposited in such bank

¹ Section 29 subsequently amended by L. 1920, ch. 122.

or banks as shall be approved by the mayor, and such moneys shall be drawn from said bank or banks only upon the order of the chamberlain, countersigned by the mayor. All orders drawn for said moneys or deposits, except those drawn upon the state and county funds, shall be numbered consecutively and shall specify for what purposes the amount stated is to be paid and to what fund it is chargeable. He shall, whenever required by the common council, furnish to them a detailed report of the amounts received by him, the sources from which they are received and the amounts credited to each particular fund, together with a detailed statement of all payments made by him, the persons to whom same were paid and the particular fund to which such payments were charged. He shall keep his office in such convenient place in said city as the common council may provide, where he shall attend during the business hours of each day, Sundays and legal holidays excepted, unless otherwise directed by the common council. All the books and records of his office shall be produced upon reasonable demand and shall be open for the inspection of any officer or taxpayer of said city, and he shall permit copies and transcripts to be made and taken thereof by any such officer or persons. All fees, fines, commissions, and interest money received by him on account of collections made by virtue of any tax warrant or otherwise, shall be paid by him into the general contingent fund of the city; and any willful neglect or refusal by him to collect or receive any fee, fine, or commission belonging to the city, or any willful neglect of his duties as such chamberlain, shall be deemed a violation of the duties of his office and subject him to suspension by the mayor and removal from office by the common council upon the complaint of any taxpayer, as provided in section one of this title. The chamberlain shall receive an annual salary² to be fixed by the common council in full payment of his services under this act, to be paid to him in monthly installments. Before he enters upon the discharge of his duties he shall execute to the city a bond in the penal sum of ten thousand dollars with two or more sureties approved by the common council, which bond shall be joint and several in form and accompanied by an affidavit of each surety subjoined thereto to the effect that he is a resident and a free holder within the county of Fulton and is worth the sum stated therein over all his debts and liabilities which he owns or has incurred, and exclusive of property exempt by law from levy and sale under execution. Said sureties shall so justify in an aggregate sum equal at least to the penalty of the bond. Said bond shall be conditioned only that the chamberlain will faithfully discharge the duties of his office and execute and collect the taxes in all assessment-rolls and warrants delivered to him by the common council; such bond when approved by the common council shall be filed and entered in the office of the clerk of Fulton county in the manner prescribed by law for filing and entering bonds of county treasurers; and every such bond shall

² Words "of not to exceed eighteen hundred dollars," omitted.

be a lien on all real estate held jointly or severally by the parties executing it, within the county of Fulton, and continue to be such lien until its conditions, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied. A true copy of such bond shall be filed in the city clerk's office. Before the delivery to the chamberlain of each assessment-roll and warrant for the collection of a city or school tax, he shall execute to said city a bond in the penal sum of twenty-five thousand dollars, with two or more sureties, which bond shall be in form of execution similar to the bond hereinbefore mentioned, except that it shall be conditioned that said chamberlain shall account for and pay over all moneys which shall come to his hands by virtue of the assessment-roll and warrant delivered to him as aforesaid. The sureties on such bonds shall justify in the same manner as provided with respect to the bond first above mentioned in this section, and the same shall be approved by the common council and filed and entered in the county clerk's office, as in the case of said former bond, and be a lien upon the real estate of the parties executing the same in like manner. But in the discretion of the common council, any bond or undertaking required to be executed by the chamberlain may be executed, or the conditions thereof guaranteed, by a company duly organized or authorized to guarantee the fidelity of persons holding positions of public trust, in lieu of sureties as above provided. The common council in lieu of any other bond or undertaking required of the chamberlain by this act, except the one first above mentioned, may at its option direct the said chamberlain to procure from an approved company or companies, organized and authorized as aforesaid, a bond or undertaking to the city, or a guarantee of said chamberlain's bond or undertaking, in the penal sum of twenty-five thousand dollars, conditioned that the city shall be protected and saved harmless from all loss by embezzlement, larceny, or wrongful disposition by the chamberlain of any of the moneys of the city coming into his hands or received by him by virtue of his office. The common council is authorized to pay the expense of any bond or undertaking or guarantee procured from such company or companies as aforesaid. The common council may require of the chamberlain such other bond or undertaking as it shall deem expedient or necessary, which other bond or undertaking shall be in such form and penalty, with such conditions and sureties as shall be prescribed by the said common council. The chamberlain shall settle annually with the common council or as often as the common council shall direct, for all assessment-rolls and tax warrants issued to him by the common council or board of supervisors of Fulton county and produce the proper vouchers for the disbursement of moneys collected thereby and thereupon receive from said common council a satisfaction and discharge of the bond or bonds, in whole or in part, given by him for the collection of said warrants and assessment-rolls. At the expiration of his term of office he shall settle his accounts with the common council or a

committee duly appointed thereof, and shall pay over to his successor in office all moneys remaining in his hands and deliver to him all assessment-rolls, books, and papers appertaining to the affairs of the city in connection with the duties of his office. Said common council shall thereupon execute and deliver to him a proper satisfaction of the bond and bonds of said chamberlain. Any chamberlain who shall appropriate moneys, securities, obligations or other evidences of debt, or keep and retain any document, book, paper, or other property belonging to said city or the school district thereof, or be guilty of any other violation or neglect of duty in office not amounting to a felony under the laws of the state shall be guilty of a misdemeanor and punished in the same manner and subject to the same penalties as provided by law in the case of county treasurers.

§ 30. **City clerk, his powers and duties.** The clerk of said city shall have custody of the seal, records, books and papers of said city, except as otherwise provided by this act; he shall attend all the meetings and act as clerk of the common council; and he shall record all ordinances, rules, regulations, by-laws, resolutions, and proceedings of the common council and proceedings at elections of said city. He shall, under the direction of the common council, correct all clerical errors in the assessment-rolls of said city relating to the description or valuation of property, except as modified by this act, and extend, with the assistance of the appointive assessor, the said assessment-rolls, as required by this act. The books and papers of his office shall be produced upon reasonable demand for the inspection of any elector or taxpayer of said city, and upon like demand and tender of fees at the rate of ten cents per folio therefor he shall furnish a certified copy of any paper or record filed or kept with him as such clerk. He shall permit any such elector or taxpayer to make transcript and take copies of any such paper or record in his office under such reasonable restrictions and regulations as may be necessary for the preservation and care of the originals. His office is hereby declared a town clerk's office, for the purpose of depositing, filing, and entering of record therein all books and papers, including chattel mortgages, required by law to be deposited, filed and entered of record in a town clerk's office; and he shall, in and for the said city, possess the powers, discharge the duties, and receive the fees of a town clerk. He shall keep an accurate account of all moneys received by him belonging to the city, and shall within ten days after receipt by him of such moneys, pay the same to the chamberlain, for which he shall take a receipt from such chamberlain, and file the same in his office, and have such receipts ready at all times and submit the same for the examination of the common council or any member thereof or the mayor of the city whenever required to do so. He shall sign all licenses granted by the common council, and sign all orders drawn upon the chamberlain by direction of the common council, for payment of moneys belonging to the city, and shall keep in separate books, furnished by the city for that purpose, an accurate record of all

such licenses and orders, specifying in the book of orders the number of each order, the purposes for which it was issued, including the number of the voucher and the date of the resolution directing its issue; and in the book of licenses, to whom granted, for what time and purpose, and the amount paid therefor. He shall also keep such other books and perform such other duties as may be required by this act, or by the common council. He shall, if required so to do by the common council, report in writing to any regular meeting thereof the amount of all orders drawn by it on the several funds in the hands of the chamberlain since the last regular meeting, or since his last report thereon. He shall receive in payment for his services, such amount as may be fixed by the common council,³ payable monthly, and no other fee or reward from said city. In case of his absence from any meeting of the common council, or in case of his absence or inability to discharge the duties of his office, or in case of his death, one of the aldermen shall be designated by the mayor to discharge the duties of said clerk at such meeting or meetings or until his successor is appointed; and during his absence or disability or in case of his death until his successor is appointed, the mayor may designate another person to discharge his duties as a deputy clerk, and who shall upon compliance with all the provisions of this act required of said clerk, possess all the powers and discharge all the duties of said clerk during such absence or disability and for such period draw a salary equal to that which the clerk for such period would be entitled, to be deducted from the salary of the clerk. Before entering upon the duties of his office said clerk or deputy clerk shall execute to the city of Gloversville a bond in such form and penalty and with such sureties as the common council may direct and approve, conditioned that he will faithfully and honestly discharge the duties of his office, and account for and pay over all moneys which shall come into his hands as such officer; and the common council shall cause the same, with their approval certified by the mayor thereon, to be filed with the clerk of Fulton county and entered on record in the same manner as provided for the recording of bonds of town collectors. Said clerk shall also perform the duties required and receive the fees of town clerks under the provisions of the justice court act relating thereto,⁴ except that he shall deliver to the recorder, and each justice of the peace of said city, a certified copy of each list filed with him under the provisions of the civil practice act and the rules of civil practice relating thereto,⁵ and such lists so served upon such recorder and each justice shall be taken and deemed as one list for all the

³ Words "which shall not be at a greater rate than eighteen hundred dollars per year," omitted.

⁴ Words "under the provisions of the justice court act relating thereto," substituted for words "in and by title five of chapter nineteen of the code of civil procedure."

⁵ Words "under the provisions of the civil practice act and the rules of civil practice relating thereto," substituted for words "pursuant to article second, title three of chapter ten of the code of civil procedure."

intents and purposes specified in the justice court act.* All fees received by the clerk under the provisions of this act or otherwise shall be paid by him to the chamberlain for the use of the city.

§ 2. Section two hundred and twenty-six of such chapter, as last amended by chapter fifty-seven of the laws of nineteen hundred and seventeen,⁷ is hereby amended to read as follows:

§ 226, as amended by L. 1917, ch. 57, amended.

§ 226. **Salary, oath, bond, et cetera, of commissioner.** The commissioner of charities of said city shall receive for his services an annual salary,⁸ to be fixed by the common council, to be paid monthly by orders of the common council upon the chamberlain, and paid out of the charities fund of said city. Before entering upon the duties of his office he shall take and subscribe the constitutional oath of office and file the same with the city clerk, and execute to said city a bond, with two or more sureties, to be approved by the common council, in the penalty of five thousand dollars, conditioned for the faithful discharge of the duties of his office.

§ 3. This act shall take effect immediately.

CHAPTER 557

AN ACT to amend the judiciary law, in relation to salaries of confidential clerks to supreme court justices in the ninth judicial district.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision nine of section two hundred and seventy-nine of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," as amended by chapter five hundred and seventy-two of the laws of nineteen hundred and nine, is hereby amended to read as follows:

L. 1909, ch. 35, § 279, subd. 9, as amended by L. 1909, ch. 572, amended.

9. The salary of the confidential clerks to the justices of the supreme court in the ninth judicial district, other than justices of the appellate division residing in the ninth judicial district,¹ shall not exceed the sum of three thousand dollars,² each per annum. To make up and pay the sum of money specified in this subdivision, the boards of supervisors of the counties of Westchester, Rockland, Orange, Dutchess and Putnam, in the ninth judicial district, respectively, shall annually levy and cause to be collected as a

Salaries.

Counties to raise proportionate amounts.

* Words "the justice court act" substituted for words "title five of chapter nineteen of said code."

⁷ Previously amended by L. 1903, ch. 346; L. 1914, ch. 281.

⁸ Words "of not more than fifteen hundred dollars," omitted.

¹ Words "other than justices of the appellate division residing in the ninth judicial district," new.

² Formerly "two thousand five hundred dollars."

county charge, an amount of money which the salaries aforesaid shall proportionately bear to the taxable real and personal property in said counties, respectively, according to the last annual assessment rolls therein, to be apportioned by the comptroller of the state. And the respective treasurers of said counties shall receive and pay over the sum so raised to the comptroller of the state, who shall thereupon pay to the said confidential clerks aforesaid, under the direction of said justices, in equal monthly³ payments, the salaries so to be allowed such confidential clerks, not exceeding the amount hereby authorized.

§ 2. This act shall take effect immediately.

CHAPTER 558

AN ACT to amend the judiciary law, in relation to the salary of the confidential clerk of the appellate division of the supreme court, first department.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 25,
§ 271,
subd. 4, as
amended by
L. 1920,
ch. 790,
amended.

Section 1. Subdivision four of section two hundred and seventy-one of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," as last amended by chapter seven hundred and ninety of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

4. The salaries of the deputy clerk, assistant clerks, confidential clerk and confidential opinion clerk of the appellate division in the first department shall be fixed by said justices of the appellate division, or a majority of them, at an amount not to exceed six thousand dollars per annum for the deputy clerk; at an amount not to exceed four thousand five hundred dollars per annum for the assistant clerks; at an amount not to exceed six thousand dollars¹ per annum for the confidential clerk and at an amount not to exceed three thousand five hundred dollars per annum for the confidential opinion clerk, payable by the city of New York.

§ 2. This act shall take effect immediately.

³ Formerly "quarterly."

¹ Formerly "five thousand dollars."

CHAPTER 559

AN ACT to amend the judiciary law, in relation to the salary of confidential opinion clerks in the second judicial department.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision five of section two hundred and seventy-one of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to the administration of justice, constituting chapter thirty of the consolidated laws," as last amended by chapter seven hundred and ninety-eight of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1909,
ch. 35,
§ 271,
subd. 5, as
amended by
L. 1920,
ch. 798,
amended.

5. The salaries of the deputy clerk, assistant deputy clerks and confidential opinion clerks of the appellate division in the second department shall be fixed by the justices of the said appellate division or a majority of them, at an amount not to exceed six thousand dollars per annum for the deputy clerk, and² at an amount not to exceed four thousand five hundred dollars per annum for the assistant deputy clerks and³ the confidential opinion clerks, to be paid quarterly by the comptroller of the state out of the moneys to be raised as provided in this subdivision. To provide the money necessary to pay the salaries of said deputy clerk, assistant deputy clerks and confidential opinion clerks, the comptroller of the state shall annually apportion a sum equal to the total amount of said salaries, as fixed by said justices, or a majority of them, among the counties composing the second judicial department, and cause the same to be levied and collected on the real and personal property in said counties in the same manner in which state taxes are levied and collected.

Salaries.

To be ap-
portioned
among
counties.

§ 2. This act shall take effect immediately.

CHAPTER 560

AN ACT to amend the judiciary law, in relation to additional compensation allowed judges in Kings, Bronx, Queens and Richmond counties for services in attending the drawing of jurors.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-six of chapter thirty-five of the laws of nineteen hundred and nine, entitled "An act in relation to

L. 1909,
ch. 35,
§ 26, as
amended by
L. 1920,
ch. 588,
amended.

¹ Previously amended by L. 1911, ch. 828; L. 1917, ch. 386; L. 1918, ch. 507.

² Word "and" new.

³ Words "at an amount not to exceed three thousand five hundred dollars per annum for," omitted.

the administration of justice, constituting chapter thirty of the consolidated laws," as last amended by chapter five hundred and eighty-eight of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

§ 26. **Additional compensation allowed judges in Kings, Bronx, Queens and Richmond counties, and in the city court of the city of New York, for services in attending the drawing of jurors.** In the counties of Kings, Bronx, Queens and Richmond, there must be allowed to each judge, including each justice of the supreme court and surrogate,² and in the counties of New York and Bronx, including each justice of the city court of the city of New York, for the services performed by him in connection with the drawing of jurors, as prescribed in this chapter, such compensation as the board of estimate and apportionment of the city of New York deems reasonable and proper. Such compensation shall not exceed the amount now paid for additional compensation to the justices of the supreme court resident in the first judicial department. ³ Such compensation shall not, however, in addition to the salary or compensation paid to any judge or surrogate, together exceed the entire salary and compensation paid to a justice of the supreme court in the judicial district in which the county is included. The board of estimate and apportionment of the city of New York may so fix the same, and shall raise and provide the money to pay the said compensation.

§ 2. This act shall take effect immediately.

CHAPTER 561

AN ACT to abolish the office of county superintendent of highways in Nassau county, and to provide for the appointment of a county engineer, and prescribing his powers and duties.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

County superintendent of highways abolished; supervisors may appoint county engineer.

Section 1. The office of county superintendent of highways in the county of Nassau, as authorized by section thirty of the highway law, is hereby abolished, and in the place and stead of such county superintendent of highways as may be in office at the time this act takes effect, the board of supervisors of Nassau county are hereby empowered to appoint a county engineer, and fix his compensation, whose term of office shall be for two years from the date of his appointment and qualification, to perform the engineering work in the county. The board of supervisors shall also appoint such assistants to the county engineer as may be necessary and fix their compensation. Such appointments shall

¹ Previously amended by L. 1918, ch. 134.

² Words "and surrogate" new.

³ Following sentence new.

be made upon the recommendation of the county engineer so appointed.

§ 2. The county engineer shall perform all the county engineering required by the board of supervisors, by the other departments of the county and the provisions of the highway law; he shall make all preliminary surveys for the opening, making, constructing, paving, macadamizing, repairing, grading and establishing the grade of all streets, sidewalks and crosswalks, gutters, sewers, sewer inlets and the measurements of all work done on the same or on other public places within the county; he shall prepare all plans, profiles and specifications therefor when necessary, or when required by the board of supervisors, and shall perform such other duties as may from time to time be required by the board of supervisors; he shall have no power to employ assistants or to contract any liability or debt on the part of the county except as authorized by resolution of the board of supervisors; he shall keep in his office books and records of all surveys of maps and streets, avenues and lands and the grade thereof, and sidewalks, water mains, sewers, sewer inlets, location and grade thereof and such other books and records as the board of supervisors from time to time shall prescribe. Such books and records shall be properly indexed, and shall be the property of the county, and transmitted with all other matters pertaining to his office to his successor. His salary shall be fixed by the board of supervisors and shall not be increased during the term for which he is appointed.

County engineer: powers and duties.

Salary.

§ 3. The salary fixed by the board of supervisors as compensation for such county engineer shall be in full payment of all services he may render the county in any capacity whatsoever, directly or indirectly.

Salary to be in full payment for all services.

§ 4. Upon the appointment and qualification of the county engineer by this act provided, the superintendent of highways now in office in Nassau county shall, on written demand therefor, turn over to such county engineer all books, records, maps, profiles and other documents in his possession pertaining to the office of county superintendent of highways.

Superintendent of highways to turn over books, etc.

§ 5. This act shall take effect immediately.

CHAPTER 562

AN ACT to amend chapter five hundred and ninety of the laws of nineteen hundred and seventeen, entitled "An act to provide a charter for the city of Newburgh," in relation to the boundary of such city.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of article one of chapter five hundred and ninety of the laws of nineteen hundred and seventeen, en-

L. 1917, ch. 590, § 2 amended.

titled "An act to provide a charter for the city of Newburgh," is hereby amended to read as follows:

City
boundaries.

§ 2. The territory comprising said city shall be bounded as follows:

Beginning at a bolt set in a rock on the west shore of the Hudson river, and in the north line of North street as the same is described in the commissioner's report of the streets and roads in the city of Newburgh, dated February eleventh, eighteen hundred and sixty-eight, and runs thence north seventy-eight degrees, twenty-five minutes west along the north line of North street about two hundred and thirty-one feet six inches to the westerly right of way line of the West Shore Railroad Company; thence running northerly along the westerly right of way line of the West Shore Railroad Company about one hundred and fifty-five feet to the southeast corner of lands of Magdelene Coffin; thence north seventy-eight degrees, fifty-six minutes west, along the southerly line of lands of said Magdelene Coffin four hundred and seventy-two feet, nine inches to the east line of Barclay avenue; thence north twelve degrees, five minutes east along the east line of Barclay avenue one hundred and fifty feet, six inches to the southerly line of lands of Oswald J. Cathcart; thence north seventy-nine degrees, forty-nine minutes west, along the southerly line of lands of said Cathcart three hundred and thirty-three feet to the center of Grand avenue; thence south twelve degrees, five minutes west, along the center of Grand avenue two hundred and ninety-two feet seven inches to the north line of the aforesaid North street as established in eighteen hundred and sixty-eight; thence north seventy-eight degrees twenty-five minutes west, along the north line of North street as established in eighteen hundred and sixty-eight passing over a monument set at the northeast corner of Liberty and North streets; also passing one foot and eight inches south of the southeast corner of a brick house on the north side of the North Plank road, formerly belonging to H. H. Daughaday, more lately owned by Sarah Ryan; also passing forty-five feet north of the northwest corner of Gilbert Bush's house, more lately owned by John Werner; also passing over monument set in the road on top of Limestone Hill and over a monument set in the center of Gidney avenue; also over a monument set on the east bank of Gidneytown creek seven thousand four hundred thirty-five feet and four inches to the middle of said creek; thence southwesterly along the middle of said creek to the intersection of the center line of said creek with the west line of the Pierce road, being a point in said creek twenty-four feet on a course north nine degrees twelve minutes east from a monument set in the west line of the city and center line of said road; thence running along the west line of the city as established in eighteen hundred and sixty-eight,¹ south nine degrees twelve minutes west passing over said monument,² two

¹ Words "running along the west line of the city as established in eighteen hundred and sixty-eight," new.

² Remainder of paragraph materially amended.

hundred thirty-one feet eight inches to the northerly line of the Newburgh and Ellenville Plank road; thence leaving the boundary line as established in eighteen hundred and sixty-eight and running along the northerly line of the Newburgh and Ellenville Plank road as the needle points in nineteen hundred and twenty-two, north sixty-three degrees thirty-six minutes west four hundred six feet two inches; thence north sixty-one degrees ten minutes west one hundred forty-six feet one inch; thence north fifty-three degrees fifty-eight minutes west eighty-nine feet eleven inches; thence north thirty-eight degrees three minutes west still along the northerly line of the Newburgh and Ellenville Plank road one hundred and seventy-one feet seven inches to a point in range with a stone wall which is the westerly boundary of lands formerly known as the Wisner farm; thence south twenty-seven degrees thirty-seven minutes west crossing the Newburgh and Ellenville Plank road, and running along aforesaid stone wall one thousand seven hundred and forty-one feet to the easterly bank of Quassaick creek; thence southerly and southeasterly along the easterly bank of Quassaick creek and the northerly bank of Harrison's pond about two thousand nine hundred fifty feet to the west line of the city as established in eighteen hundred and sixty-eight, said point being distant nine hundred twenty-two feet on a course of south nine degrees twelve minutes west measured along the west line of the city as established in eighteen hundred and sixty-eight from a monument in the center of the Newburgh and Cohecton turnpike; thence south nine degrees twelve minutes west along the west line of the city as established in eighteen hundred and sixty-eight, passing over a monument in the center of the Little Britain road three thousand and three hundred thirty-six feet to a monument set in the west slope of Snake Hill; thence south sixty-seven degrees east on a division line between the city of Newburgh and the town of New Windsor thirteen hundred and seventy-four feet to a bolt in the rocks on the east slope of Snake Hill; thence north fifty-three degrees east twenty-one hundred and sixty feet to a monument set in the lands of the House of the City and town of Newburgh; thence south sixty-seven degrees fifteen minutes east nine hundred and ninety feet to a monument set in lands belonging to the Erie Railway Company; thence south fifty-two degrees forty-five minutes east five hundred and seven feet to a cross in the middle of a large rock in J. D. Walsh's, now Little Falls Paper Company, millpond; thence eastwardly along the center of Quassaick creek six thousand one hundred feet to the Hudson river; thence northerly along said river about two miles to the place of beginning.

Also beginning at the northeast corner of the land above described and running thence due east to the east line of Orange county, being the center of the Hudson river; thence southerly along the same to a point due east from the southeast corner of the lands above described; thence due west to the southeast corner of said lands; thence northerly along the easterly line of the lands above described about two miles to the place of beginning.

§ 2. This act shall take effect immediately.

CHAPTER 563

AN ACT to amend the Greater New York charter, in relation to the acquisition of real property for streets and parks.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901,
ch. 496,
§ 970, as
added by
L. 1915,
ch. 604, and
amended by
L. 1917,
ch. 631,
amended.

Section 1. Section nine hundred and seventy of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as added by chapter six hundred and six of the laws of nineteen hundred and fifteen, as amended by chapter six hundred and thirty-one of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

THE CITY MAY ACQUIRE REAL PROPERTY FOR STREETS, PARKS, ET CETERA.

§ 970. The city of New York may acquire title either in fee or to an easement, as may be determined by the board of estimate and apportionment, for the use of the public, to all or any of the real property required for streets and court-yards abutting streets, and for parks, parkways, playgrounds, approaches to bridges and tunnels and sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of the navigation of waters within or separating portions of the city of New York for the improvement of the waterfronts of the city of New York, or part or parts thereof, heretofore duly laid out upon the map or plan of the city of New York, of the city of Brooklyn, or Long Island City, or of any of the territory consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York or hereafter duly laid out upon the map or plan of the city of New York, as herein constituted, and cause the same to be opened, or acquire title as above stated to such interests in real property as will promote public utility, comfort, health, enjoyment, or adornment, the acquisition of which is not elsewhere provided for. The board of estimate and apportionment may specify what use is required of the real property which it may determine shall be acquired for public use, and the extent of such use, and may direct the same to be acquired whenever and as often as it shall deem it for the public interest so to do.¹ The city of New York may also acquire for street purposes title in fee or to an easement as may be determined by the board of estimate and apportionment to any real property heretofore acquired through purchase or condemnation by

¹ Following sentence new.

any railroad corporation in the borough of Brooklyn for its corporate purposes and which real property lies within the lines of any street now or hereafter laid out upon the map or plan of the city of New York, where the transit commission certifies that the ownership or exclusive use of such real property is no longer necessary to the carrying out of such corporate purposes; provided, however, anything in this act to the contrary notwithstanding that such title or easement shall be acquired by the city subject to the right of the corporation to continue to use such real property during the term of its corporate existence and for its corporate purposes or in lieu thereof to use for a like term and like purposes such other portion of the streets within which such real property shall lie as the transit commission shall designate. The real property required for such purposes may be taken therefor, and compensation and recompense shall be made to the owners thereof. The real property benefited by the improvement may be assessed for the benefit and advantage derived therefrom. In all proceedings authorized by the board of estimate and apportionment prior to the first day of January, nineteen hundred and seventeen, the said board shall determine whether the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court, without a jury, or by three commissioners of estimate to be appointed by the said court. In proceedings in which the board of estimate and apportionment shall determine that the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court without a jury, the city of New York shall make application, or cause application to be made to the said court, in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, to have the compensation, which should justly be made to the respective owners of the real property proposed to be taken, ascertained and determined by the said court without a jury, and to have the cost of the improvement, or such portion thereof as the board of estimate and apportionment shall direct, assessed by the court upon such real property as the board of estimate and apportionment may deem to be benefited thereby. In proceedings in which the board of estimate and apportionment shall determine that the compensation, which should justly be made to the owners of the real property proposed to be taken, shall be ascertained by three commissioners of estimate to be appointed by the said court, the city of New York shall make application, or cause application to be made to the said court in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, for the appointment of three commissioners of estimate to ascertain and determine the compensation to be made to the owners of the real property proposed to be acquired, and in a proper case, for the appointment of one of the commissioners of estimate as a commissioner of assessment for the purpose of levying the assessment of the cost of the improvement, or such portion thereof as

CHAPTER 563

AN ACT to amend the Greater New York charter, in relation to the acquisition of real property for streets and parks.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901,
ch. 406,
§ 970, as
added by
L. 1915,
ch. 606, and
amended by
L. 1917,
ch. 631,
amended.

Section 1. Section nine hundred and seventy of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as added by chapter six hundred and six of the laws of nineteen hundred and fifteen, as amended by chapter six hundred and thirty-one of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

THE CITY MAY ACQUIRE REAL PROPERTY FOR STREETS, PARKS,
ET CETERA.

§ 970. The city of New York may acquire title either in fee or to an easement, as may be determined by the board of estimate and apportionment, for the use of the public, to all or any of the real property required for streets and court-yards abutting streets, and for parks, parkways, playgrounds, approaches to bridges and tunnels and sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of the navigation of waters within or separating portions of the city of New York for the improvement of the waterfronts of the city of New York, or part or parts thereof, heretofore duly laid out upon the map or plan of the city of New York, of the city of Brooklyn, or Long Island City, or of any of the territory consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York or hereafter duly laid out upon the map or plan of the city of New York, as herein constituted, and cause the same to be opened, or acquire title as above stated to such interests in real property as will promote public utility, comfort, health, enjoyment, or adornment, the acquisition of which is not elsewhere provided for. The board of estimate and apportionment may specify what use is required of the real property which it may determine shall be acquired for public use, and the extent of such use, and may direct the same to be acquired whenever and as often as it shall deem it for the public interest so to do.¹ The city of New York may also acquire for street purposes title in fee or to an easement as may be determined by the board of estimate and apportionment to any real property heretofore acquired through purchase or condemnation by

¹ Following sentence new.

any railroad corporation in the borough of Brooklyn for its corporate purposes and which real property lies within the lines of any street now or hereafter laid out upon the map or plan of the city of New York, where the transit commission certifies that the ownership or exclusive use of such real property is no longer necessary to the carrying out of such corporate purposes; provided, however, anything in this act to the contrary notwithstanding that such title or easement shall be acquired by the city subject to the right of the corporation to continue to use such real property during the term of its corporate existence and for its corporate purposes or in lieu thereof to use for a like term and like purposes such other portion of the streets within which such real property shall lie as the transit commission shall designate. The real property required for such purposes may be taken therefor, and compensation and recompense shall be made to the owners thereof. The real property benefited by the improvement may be assessed for the benefit and advantage derived therefrom. In all proceedings authorized by the board of estimate and apportionment prior to the first day of January, nineteen hundred and seventeen, the said board shall determine whether the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court, without a jury, or by three commissioners of estimate to be appointed by the said court. In proceedings in which the board of estimate and apportionment shall determine that the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court without a jury, the city of New York shall make application, or cause application to be made to the said court, in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, to have the compensation, which should justly be made to the respective owners of the real property proposed to be taken, ascertained and determined by the said court without a jury, and to have the cost of the improvement, or such portion thereof as the board of estimate and apportionment shall direct, assessed by the court upon such real property as the board of estimate and apportionment may deem to be benefited thereby. In proceedings in which the board of estimate and apportionment shall determine that the compensation, which should justly be made to the owners of the real property proposed to be taken, shall be ascertained by three commissioners of estimate to be appointed by the said court, the city of New York shall make application, or cause application to be made to the said court in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, for the appointment of three commissioners of estimate to ascertain and determine the compensation to be made to the owners of the real property proposed to be acquired, and in a proper case, for the appointment of one of the commissioners of estimate as a commissioner of assessment for the purpose of levying the assessment of the cost of the improvement, or such portion thereof as

the board of estimate and apportionment may direct to be assessed upon such real property as may be deemed by the said board of estimate and apportionment to be benefited thereby. The board of estimate and apportionment may authorize two or more streets to be included in one proceeding. The moneys collected upon the assessment for benefit shall be paid into the city treasury. The damages awarded as compensation shall become due and payable immediately upon the entry of the final decree of the court, or upon the entry of the order confirming the report of the commissioners of estimate, as the case may be. In proceedings authorized by the board of estimate and apportionment after the first day of January, nineteen hundred and seventeen, the compensation to which the owners of real property to be acquired for the use of the public for the purposes specified in this section, shall be ascertained and determined by the supreme court without a jury in the manner and according to the procedure prescribed by this title, and on and after said date the city of New York shall make application to the court, or cause application to be made to the supreme court in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, to have the compensation, which should justly be made to the respective owners of the real property proposed to be acquired, ascertained and determined by the said court, without a jury, and to have the cost of the improvement, or such portion thereof as the board of estimate and apportionment shall direct, assessed by the court upon the real property deemed by the board of estimate and apportionment to be benefited thereby.

§ 2. This act shall take effect immediately.

CHAPTER 564

AN ACT to authorize and empower the city of New York to acquire a site for a building to be used for the advancement of education in music, drama and other arts.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acquisition
of site.

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized and empowered in its discretion to acquire title in fee to a site for a building to be used for the advancement of education in music, drama and other arts. Such site shall be within the borough of Manhattan in said city and shall be selected by the mayor of the city of New York, subject to the approval of said board of estimate and apportionment. The said board of estimate and apportionment may in its discretion acquire the said site by gift or by purchase and may agree upon the purchase price of the lands or interests

therein so selected and approved, or in its discretion may acquire title thereto by condemnation proceedings in the manner provided by chapter twenty-one of the Greater New York charter as amended. Such site when acquired shall be set apart for erecting a building or buildings thereon for the purpose aforesaid, the same to be erected with money raised by private donations and endowments.

§ 2. The board of estimate and apportionment is authorized in its discretion to make and enter into a contract or contracts with any person or persons, or corporation or corporations, to construct and maintain without cost to the city of New York, a building or buildings for the purposes aforesaid on said site when acquired. Said board may enter into a contract or contracts with any person or persons, corporation or corporations, as to the use and occupation of the building or buildings, after the erection thereof, upon such terms and conditions as the board of estimate and apportionment shall in its discretion determine, but such building or buildings shall be devoted only to the advancement of education in music, drama and other arts.

Contracts for construction, maintenance and use of buildings.

§ 3. For the purpose of carrying out the provisions of this act, and for paying the expenses of the acquisition of the site and the expenses of any such condemnation proceeding, it shall be the duty of the comptroller of the city of New York, upon being thereunto authorized by the said board of estimate and apportionment, to issue and sell the corporate stock of the city of New York in such amount as may be necessary and at such a rate of interest as may be fixed by said comptroller.

Issue of corporate stock.

§ 4. This act shall take effect immediately.

CHAPTER 565

AN ACT to amend the Greater New York charter, in relation to the planting of trees as a local improvement.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and thirty-three of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

L. 1901,
ch. 466,
§ 433
amended.

LOCAL BOARD; PROCEEDINGS AFTER PETITION.

§ 433. The local board, after the submission of such petition and consideration of the same, may then, as the petition shall ask, pass a resolution to bridge, to tunnel, to open, to close, to extend, to widen, to regulate, to grade, to curb, to gutter, to flag,

to plant trees on the sidewalks of¹ and to pave streets, to lay crosswalks, and to construct sewers within its district, and generally for such other improvements in and about such streets within its district as the public wants and convenience of the district shall require.

§ 2. This act shall take effect immediately.

CHAPTER 566

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments, which are now a lien upon the real estate of the American Legion in Kings County Building Corporation Incorporated, in Kings county, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of such city approving the same, may, in their discretion, upon such terms as they may deem proper, by unanimous vote, cancel and annul all taxes, assessments and water rents for the year nineteen hundred and twenty-one which are now a lien against the real property owned by the American Legion in Kings County Building Corporation, Incorporated, a corporation organized for the purpose of holding the real property of the American Legion post in Kings county, which latter corporation is organized for patriotic purposes; such real property being known by and as street number one hundred and twenty-three Schermerhorn street in the borough of Brooklyn, city of New York. The comptroller of such city shall mark the city's books in accordance with the determination of such commissioners under the provisions of this act.

§ 2. This act shall take effect immediately.

¹ Words "to plant trees on the sidewalks of," new.

CHAPTER 567

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and water rents which are now a lien upon the property of the New York City Baptist Mission Society, a religious corporation in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may, in their discretion and upon such terms as they may deem proper by a unanimous vote, cancel and annul the taxes and water rents for the year nineteen hundred and fifteen, which are now a lien against the real estate owned by the New York City Baptist Mission Society, a religious corporation, at numbers one hundred and twenty-four to one hundred and twenty-eight, inclusive, Wadsworth avenue, borough of Manhattan, city of New York, known as lot thirty-seven in block twenty-one hundred and sixty-three, section eight, on the land map of the county of New York, whether or not such taxes accrued or became a lien against such property while owned by the New York City Baptist Mission Society or its immediate grantor or predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 568

AN ACT authorizing the commissioners of the sinking fund in the city of New York to cancel and annul certain unpaid taxes upon the real estate, in said city, belonging to the Peoples Hospital.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York are hereby authorized, in their discretion, to cancel and annul any and all taxes heretofore levied and assessed, and now unpaid since January first, nineteen hundred and eight,

upon the real estate in the city of New York used for charitable purposes and belonging to the Peoples Hospital, situated at number two hundred and three Second avenue, and designated on the map of the department of taxes and assessments of said city as in block four hundred and sixty-eight, section two, lot number thirty-six, and the comptroller of the city of New York is hereby directed to mark such taxes and sales for taxes upon the proper assessment books of the city of New York in accordance with the determination of the said commissioners.

§ 2. This act shall take effect immediately.

CHAPTER 569

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the property, in the borough of Richmond, city of New York, owned by The Society for the Relief of Destitute Children of Seamen, a charitable corporation.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the real estate owned by The Society for the Relief of Destitute Children of Seamen, a domestic corporation, known as lot two (a part of lot formerly numbered one), in block one hundred and one, ward one, volume two, on the land map of the borough of Richmond, city of New York, whether such taxes or assessments accrued or became a lien against such property while owned by said The Society for the Relief of Destitute Children of Seamen or while owned by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 570

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien on the property of All Angels Church, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul the taxes, water rents and assessments for the year eighteen hundred and sixty-nine which are now a lien against the real estate owned by All Angels Church, a religious corporation, known as section four, block twelve hundred and twenty-eight, lot sixty-one on the land map of the borough of Manhattan, city of New York, (formerly known as ward twenty-two, block two hundred and fifteen, lots sixty-one and sixty-two), whether or not such taxes, water rents or assessments accrued or became a lien against such property while owned by said All Angels Church or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents, in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 571

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel all taxes and water rents and penalties which are now a lien upon the property of Saint Joseph's Day Nursery, a charitable corporation in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul the taxes for the year nineteen hundred and

sixteen, second half, and water rents and penalties for the year nineteen hundred and seventeen and nineteen hundred and eighteen, which are now a lien against the real estate owned by Saint Joseph's Day Nursery, a charitable corporation, known and described as section four, block ten hundred and sixty-seven, lot five, on the land map of the city of New York, borough of Manhattan, whether or not such taxes accrued or became a lien against such property while owned by Saint Joseph's Day Nursery or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 572

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation, in the borough of Queens, city of New York.

Accepted by the City.

Passed on April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

Enacted by the Senate of the State of New York, represented in Senate and Assembly, as follows:

SECTION 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may, in their discretion and upon such terms as they may deem proper by a unanimous vote, cancel and annul the taxes and assessments and water rents which are now a lien against the real estate owned by Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation in the borough of Queens, city of New York, known as lot sixteen in block one hundred and twenty-two, ward three volume six on the land map of the county of Queens, whether or not such taxes, assessments and water rents accrued or became a lien against such property while owned by the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, or its immediate grantor or predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 573

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul certain unpaid taxes made liens upon real estate in such city while owned by New York Nursery and Child's Hospital, a charitable institution in said city.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York are hereby authorized, in their discretion, to cancel and annul any and all taxes heretofore levied and assessed, and now unpaid since January first, nineteen hundred and nine, upon real estate situated in the borough of Richmond, in the city of New York, and designated prior to the year nineteen hundred and seventeen as ward two, plot thirty, lot one hundred and fifty, and since the year nineteen hundred and seventeen designated as ward two, block seven hundred and fifty-two, lot one, on the land map of the city of New York applicable to the borough of Richmond, which taxes accrued or became a lien against such property while owned by New York Nursery and Child's Hospital, a charitable institution in the city of New York. The comptroller of the city of New York shall mark the city's assessment books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 574

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of Saint Mark's Hospital of New York city, a charitable institution in the city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul all taxes, for the year nineteen hundred and twenty which are now a lien against the real estate owned by

St. Mark's Hospital of New York city, a charitable institution, whose property is used exclusively for hospital purposes, which said real estate is known and designed* as section two, block four sixty-seven, lot forty-one on the land map of the city of New York.

The comptroller of the city of New York or such other officer of said city as shall have control thereof, shall mark the said city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 575

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments which are now a lien upon the real estate of the Diocesan Missions of Long Island situated at Steinway in the county of Queens, borough of Queens and city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York approving the same may in their discretion and upon such terms as they may deem proper cancel and annul all taxes and assessments which are now a lien against or upon the real estate owned by the Diocesan Missions of Long Island, a religious corporation, known as all those four certain lots, pieces or parcel of lands, situate, lying and being in the borough of Queens of the city of New York, and in the county of Queens in the state of New York, and known and distinguished on a certain map entitled "Map of property in the fifth ward of Long Island City, Queens county, New York," made by Peter G. Van Alst, city surveyor, for Steinway and Sons of the city of New York, dated November first, eighteen hundred and seventy-three, and filed in the office of the clerk of the said county of Queens, November twelfth, eighteen hundred and seventy-four, by the number† twenty, twenty-one, twenty-two, and twenty-three in block number thirty-seven. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under this act.

§ 2. This act shall take effect immediately.

* So in original. [Evidently should be "designated."]

† So in original. [Letter "s" omitted.]

CHAPTER 576

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are a lien upon the property of the Church of the Mediator, a religious corporation, in the borough of the Bronx, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul all taxes, assessments and water rents which are now a lien against the real estate owned by the Church of the Mediator, a religious corporation, known as lot thirty-eight, block three thousand four hundred and six, section thirteen, on the land map of the city of New York. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 577

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien upon the property of the Congregation Sherith Israel of Janina, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes, which are now a lien against the real estate owned by the Congregation Sherith Israel of Janina, a religious corporation, known as section six, block seventeen hundred and forty-five, lot sixty-six on the land map of the borough of Manhattan, city of New York, whether or not such taxes, water rents or assessments accrued or became a lien

against such property while owned by said Congregation Sherith Israel of Janina or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 578

AN ACT to amend chapter three hundred and sixty-two of the laws of nineteen hundred and twenty, entitled "An act to regulate sessions of the board of supervisors of Oneida county and to fix the compensation of the members thereof," in relation to the salary of the chairman, and authorizing the election of a taxing clerk for such board.

Enacted a law April 22, 1922 with the approval of the Governor. Passed, three-fifths being present.

The Senate of the State of New York, represented in Senate and Assembly,
do hereby enact as follows:

Section 1. Section two of chapter three hundred and sixty-two of the laws of nineteen hundred and twenty, entitled "An act to regulate sessions of the board of supervisors of Oneida county and to fix the compensation of the members thereof," is hereby amended to read as follows:

Section 2. The organization of the board shall be on the first Monday after the first Monday of the month of January, or on a subsequent day or days following, at which time a permanent chairman shall be elected who shall serve one year, and in case of death, removal, resignation or retirement of such chairman, a successor shall be elected for the unexpired term. He shall receive an annual salary of six hundred dollars in addition to his salary as supervisor,¹ and in addition thereto he shall be allowed all fees and mileage as supervisor, the same to be paid as other county charges are paid. He shall also receive his actual and necessary expenses in going to and from his residence to his office in the county building when the board of supervisors is not in session. At the organization of such board in each year hereafter, it shall elect a clerk, an assistant clerk and messenger, whose salaries shall be fixed by the board and who shall hold office at the pleasure of such board.

§ 2. This act shall take effect immediately.

¹ Words "in addition to his salary as supervisor," new.

CHAPTER 579

An act to amend chapter six hundred and sixty-seven of the laws of nineteen hundred and ten, entitled "An act to amend, revise and consolidate the charter of the village of Ossining," generally.¹

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section thirty-one of chapter six hundred and sixty-seven of the laws of nineteen hundred and ten, entitled "An act to amend, revise and consolidate the charter of the village of Ossining," as last amended by chapter one hundred and twelve of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

L. 1910,
ch. 667,
§ 31,
subd. 1, as
amended by
L. 1921,
ch. 112,
amended.

§ 31. Compensation of officers.

1. The president and trustees shall receive no compensation for their services; the police justice shall receive not exceeding two thousand five hundred dollars per year, payable in equal monthly payments; the chief of police shall receive not exceeding two thousand dollars per year, payable in equal monthly payments; the lieutenant of police shall receive not exceeding one thousand eight hundred dollars per year, payable in equal monthly payments; and the policemen shall receive as compensation for their services, for the first year not exceeding one thousand four hundred dollars, for the second year, one thousand five hundred dollars, for the third year not exceeding, and each year thereafter not exceeding, the sum of one thousand seven hundred dollars, payable in equal monthly payments. Said salaries to be fixed and determined by the board of trustees.

§ 2. Section thirty-seven of such chapter, as amended by chapter one hundred and fifteen of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 37, as
amended by
L. 1920,
ch. 115,
amended.

§ 37. Duties and compensation of clerk. The clerk shall attend at his office daily during the usual business hours, and at other times as directed by the board of trustees. He shall attend and act as clerk at all meetings and elections of the inhabitants and trustees, record their proceedings, keep all books and papers, and the seal of the corporation, and deliver the same to his successor on demand, and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the board of trustees or police court certified by him under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced; and for certifying the same he shall be entitled to receive ten cents per folio from the person requiring the same. The books and papers under his custody and control shall always be pro-

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1917, ch. 86; L. 1920, ch. 115.

duced for inspection to any person that may be interested therein. He shall attend to the publication of by-laws, rules, ordinances, and notices which the trustees shall direct; notify all persons of their election or appointment to office under this act, and perform such other duties as the trustees may, from time to time, lawfully direct. He shall also furnish the treasurer of said village immediately after each meeting at which any drafts have been ordered upon the treasurer, a list of names and amounts of such drafts, and to what fund charged and payable from. Under the direction of the trustees, the clerk shall also keep a complete set of books which shall show the exact financial condition of the corporation, and said books shall be open to the inspection of all inhabitants and taxpayers at all reasonable times. He shall also act as clerk of the police court as hereinafter specified. In case of the absence of the clerk from any meeting of the inhabitants of said village, authorized by this act, or of said trustees, such persons as shall be chosen or appointed therefor by the trustees, shall on such occasions perform the duties appertaining to such clerk. For his services as clerk of the village, he shall receive an annual salary of not exceeding twenty-five hundred dollars, payable as hereinafter provided; and for his services as clerk of the police court he shall receive an annual salary of not exceeding seven hundred dollars, payable out of the police fund. Such salary shall be payable in equal monthly installments.

§ 59, as amended by L. 1920, ch. 115, amended.

§ 3. Section fifty-nine of such chapter, as last amended by chapter one hundred and fifteen of the laws of nineteen hundred and twenty,^{*} is hereby amended to read as follows:

§ 59. **Annual taxes.** Upon the expiration of such fifteen days, the board of trustees is empowered to assess, levy and collect upon the real and personal property within the limits of said village, appearing on said assessment-roll, the following taxes and assessments, namely:

1. A sum not exceeding ten mills on every dollar of assessed valuation, as shown by the assessment-roll of said village, in any fiscal year to be expended to defray the expenses of the said village, of which at least twenty thousand dollars shall be appropriated for the maintenance of streets and highways.

2. Such sum or sums as may be necessary to pay the interest on any and all highway improvement bonds and the principal thereof at maturity.

3. Such sum or sums as may be necessary to pay the interest on any or all sewer bonds and the principal thereof at maturity, and such further sums as may be required for the necessary repairs of sewers.

4. Such sums as may be necessary to pay the interest on any and all other bonds, and certificates of indebtedness issued in payment of permanent improvements, and the principal thereof at maturity.

5. The amount required for the maintenance of the police department, which shall be determined and fixed by the said board of trustees after the annual charter election.

^{*} Previously amended by L. 1914, ch. 65.

6. The several amounts of money to be assessed, levied and collected for sewers, macadamizing, paving and improving streets of said village or other local improvements therein.

7. An additional tax exceeding the several amounts before mentioned may be authorized by a majority vote of the taxable inhabitants of the said village qualified to vote therefor, voting at any election called for that purpose. The object of said tax, and the amount thereof shall be specified on the ballot.

8. Such sums as may be sufficient to defray the expenses of the board of health for the current year.

9. Such sums as may be lawfully required by the board of water commissioners of the said village.

10. Such sums as may be necessary to pay any judgment against the said village.

11. If by reason of the actual or alleged error in, or omission of taxable property from the assessment-roll of the last preceding year, any taxes authorized and intended to be levied thereby are not paid, or if a special tax warrant has been returned and the taxes or any part thereof levied thereby remain unpaid, the amount thereof may be levied upon the same property or against the same persons upon the annual assessment-roll of the current year. The completed assessment-roll shall be presumptive evidence of the facts therein stated.

§ 4. Section seventy-five of such chapter is hereby amended to read as follows: § 75
amended.

§ 75. **Public vehicle tax.** Every person who shall be engaged within the corporate limits of the village during any part of the year in the running of public carriages, cabs, hacks, drays, carts, express wagons or other vehicles for the transportation for hire of persons or property must obtain an annual license from the village clerk and pay therefor the sum of two dollars per year, for one vehicle operated and one dollar for each additional vehicle operated by such person, which license shall be collected under the direction of said board of trustees, and shall be applied and appropriated by them to the work of repairing of the streets and bridges in said village.

§ 5. Section one hundred and three of such chapter is hereby amended to read as follows: § 103
amended.

§ 103. **Board may pave streets.** The board of trustees is hereby authorized and empowered to macadamize or pave any street, avenue, or highway in said village, and may, by resolution, determine to pave any such street, avenue or highway. Said board of trustees is hereby authorized and empowered to make such changes in the grade of such streets, avenues or highways, and construct any drain or culvert that may be necessary for the proper macadamizing or paving of said streets, avenues or highways, and the cost of such change of grade and construction of any such drain or culvert, and any damages occasioned thereby upon the lines of said streets, avenues or highways, or any property abutting thereon, shall be considered as part of the cost of such macadamizing and paving.

upon the real estate in the city of New York used for charitable purposes and belonging to the Peoples Hospital, situated at number two hundred and three Second avenue, and designated on the map of the department of taxes and assessments of said city as in block four hundred and sixty-eight, section two, lot number thirty-six, and the comptroller of the city of New York is hereby directed to mark such taxes and sales for taxes upon the proper assessment books of the city of New York in accordance with the determination of the said commissioners.

§ 2. This act shall take effect immediately.

CHAPTER 569

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the property, in the borough of Richmond, city of New York, owned by The Society for the Relief of Destitute Children of Seamen, a charitable corporation.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the real estate owned by The Society for the Relief of Destitute Children of Seamen, a domestic corporation, known as lot two (a part of lot formerly numbered one), in block one hundred and one, ward one, volume two, on the land map of the borough of Richmond, city of New York, whether such taxes or assessments accrued or became a lien against such property while owned by said The Society for the Relief of Destitute Children of Seamen or while owned by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 570

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien on the property of All Angels Church, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul the taxes, water rents and assessments for the year eighteen hundred and sixty-nine which are now a lien against the real estate owned by All Angels Church, a religious corporation, known as section four, block twelve hundred and twenty-eight, lot sixty-one on the land map of the borough of Manhattan, city of New York, (formerly known as ward twenty-two, block two hundred and fifteen, lots sixty-one and sixty-two), whether or not such taxes, water rents or assessments accrued or became a lien against such property while owned by said All Angels Church or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents, in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 571

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel all taxes and water rents and penalties which are now a lien upon the property of Saint Joseph's Day Nursery, a charitable corporation in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul the taxes for the year nineteen hundred and

sixteen, second half, and water rents and penalties for the year nineteen hundred and seventeen and nineteen hundred and eighteen, which are now a lien against the real estate owned by Saint Joseph's Day Nursery, a charitable corporation, known and described as section four, block ten hundred and sixty-seven, lot five, on the land map of the city of New York, borough of Manhattan, whether or not such taxes accrued or became a lien against such property while owned by Saint Joseph's Day Nursery or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 572

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation, in the borough of Queens, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may, in their discretion and upon such terms as they may deem proper by a unanimous vote, cancel and annul the taxes and assessments and water rents which are now a lien against the real estate owned by Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation in the borough of Queens, city of New York, known as lot sixteen in block one hundred and twenty-two, ward three, volume six on the land map of the county of Queens, whether or not such taxes, assessments and water rents accrued or become a lien against such property while owned by the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, or its immediate grantor or predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 573

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul certain unpaid taxes made liens upon real estate in such city while owned by New York Nursery and Child's Hospital, a charitable institution in said city.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York are hereby authorized, in their discretion, to cancel and annul any and all taxes heretofore levied and assessed, and now unpaid since January first, nineteen hundred and nine, upon real estate situated in the borough of Richmond, in the city of New York, and designated prior to the year nineteen hundred and seventeen as ward two, plot thirty, lot one hundred and fifty, and since the year nineteen hundred and seventeen designated as ward two, block seven hundred and fifty-two, lot one, on the land map of the city of New York applicable to the borough of Richmond, which taxes accrued or became a lien against such property while owned by New York Nursery and Child's Hospital, a charitable institution in the city of New York. The comptroller of the city of New York shall mark the city's assessment books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 574

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of Saint Mark's Hospital of New York city, a charitable institution in the city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul all taxes, for the year nineteen hundred and twenty which are now a lien against the real estate owned by

CHAPTER 563

AN ACT to amend the Greater New York charter, in relation to the acquisition of real property for streets and parks.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901,
ch. 466,
§ 970, as
added by
L. 1915,
ch. 604, and
amended by
L. 1917,
ch. 631,
amended.

Section 1. Section nine hundred and seventy of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as added by chapter six hundred and six of the laws of nineteen hundred and fifteen, as amended by chapter six hundred and thirty-one of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

THE CITY MAY ACQUIRE REAL PROPERTY FOR STREETS, PARKS, ET CETERA.

§ 970. The city of New York may acquire title either in fee or to an easement, as may be determined by the board of estimate and apportionment, for the use of the public, to all or any of the real property required for streets and court-yards abutting streets, and for parks, parkways, playgrounds, approaches to bridges and tunnels and sites or lands above or under water for bridges and tunnels, and sites or lands above or under water for all improvements of the navigation of waters within or separating portions of the city of New York for the improvement of the waterfronts of the city of New York, or part or parts thereof, heretofore duly laid out upon the map or plan of the city of New York, of the city of Brooklyn, or Long Island City, or of any of the territory consolidated with the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York or hereafter duly laid out upon the map or plan of the city of New York, as herein constituted, and cause the same to be opened, or acquire title as above stated to such interests in real property as will promote public utility, comfort, health, enjoyment, or adornment, the acquisition of which is not elsewhere provided for. The board of estimate and apportionment may specify what use is required of the real property which it may determine shall be acquired for public use, and the extent of such use, and may direct the same to be acquired whenever and as often as it shall deem it for the public interest so to do.¹ The city of New York may also acquire for street purposes title in fee or to an easement as may be determined by the board of estimate and apportionment to any real property heretofore acquired through purchase or condemnation by

¹ Following sentence new.

any railroad corporation in the borough of Brooklyn for its corporate purposes and which real property lies within the lines of any street now or hereafter laid out upon the map or plan of the city of New York, where the transit commission certifies that the ownership or exclusive use of such real property is no longer necessary to the carrying out of such corporate purposes; provided, however, anything in this act to the contrary notwithstanding that such title or easement shall be acquired by the city subject to the right of the corporation to continue to use such real property during the term of its corporate existence and for its corporate purposes or in lieu thereof to use for a like term and like purposes such other portion of the streets within which such real property shall lie as the transit commission shall designate. The real property required for such purposes may be taken therefor, and compensation and recompense shall be made to the owners thereof. The real property benefited by the improvement may be assessed for the benefit and advantage derived therefrom. In all proceedings authorized by the board of estimate and apportionment prior to the first day of January, nineteen hundred and seventeen, the said board shall determine whether the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court, without a jury, or by three commissioners of estimate to be appointed by the said court. In proceedings in which the board of estimate and apportionment shall determine that the compensation to be made to the owners of the real property to be acquired shall be ascertained by the supreme court without a jury, the city of New York shall make application, or cause application to be made to the said court, in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, to have the compensation, which should justly be made to the respective owners of the real property proposed to be taken, ascertained and determined by the said court without a jury, and to have the cost of the improvement, or such portion thereof as the board of estimate and apportionment shall direct, assessed by the court upon such real property as the board of estimate and apportionment may deem to be benefited thereby. In proceedings in which the board of estimate and apportionment shall determine that the compensation, which should justly be made to the owners of the real property proposed to be taken, shall be ascertained by three commissioners of estimate to be appointed by the said court, the city of New York shall make application, or cause application to be made to the said court in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, for the appointment of three commissioners of estimate to ascertain and determine the compensation to be made to the owners of the real property proposed to be acquired, and in a proper case, for the appointment of one of the commissioners of estimate as a commissioner of assessment for the purpose of levying the assessment of the cost of the improvement, or such portion thereof as

the board of estimate and apportionment may direct to be assessed upon such real property as may be deemed by the said board of estimate and apportionment to be benefited thereby. The board of estimate and apportionment may authorize two or more streets to be included in one proceeding. The moneys collected upon the assessment for benefit shall be paid into the city treasury. The damages awarded as compensation shall become due and payable immediately upon the entry of the final decree of the court, or upon the entry of the order confirming the report of the commissioners of estimate, as the case may be. In proceedings authorized by the board of estimate and apportionment after the first day of January, nineteen hundred and seventeen, the compensation to which the owners of real property to be acquired for the use of the public for the purposes specified in this section, shall be ascertained and determined by the supreme court without a jury in the manner and according to the procedure prescribed by this title, and on and after said date the city of New York shall make application to the court, or cause application to be made to the supreme court in a county within the city of New York and within the judicial district in which the real property to be acquired is situated, to have the compensation, which should justly be made to the respective owners of the real property proposed to be acquired, ascertained and determined by the said court, without a jury, and to have the cost of the improvement, or such portion thereof as the board of estimate and apportionment shall direct, assessed by the court upon the real property deemed by the board of estimate and apportionment to be benefited thereby.

§ 2. This act shall take effect immediately.

CHAPTER 564

AN ACT to authorize and empower the city of New York to acquire a site for a building to be used for the advancement of education in music, drama and other arts.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Acquisition
of site.

Section 1. The board of estimate and apportionment of the city of New York is hereby authorized and empowered in its discretion to acquire title in fee to a site for a building to be used for the advancement of education in music, drama and other arts. Such site shall be within the borough of Manhattan in said city and shall be selected by the mayor of the city of New York, subject to the approval of said board of estimate and apportionment. The said board of estimate and apportionment may in its discretion acquire the said site by gift or by purchase and may agree upon the purchase price of the lands or interests

therein so selected and approved, or in its discretion may acquire title thereto by condemnation proceedings in the manner provided by chapter twenty-one of the Greater New York charter as amended. Such site when acquired shall be set apart for erecting a building or buildings thereon for the purpose aforesaid, the same to be erected with money raised by private donations and endowments.

§ 2. The board of estimate and apportionment is authorized in its discretion to make and enter into a contract or contracts with any person or persons, or corporation or corporations, to construct and maintain without cost to the city of New York, a building or buildings for the purposes aforesaid on said site when acquired. Said board may enter into a contract or contracts with any person or persons, corporation or corporations, as to the use and occupation of the building or buildings, after the erection thereof, upon such terms and conditions as the board of estimate and apportionment shall in its discretion determine, but such building or buildings shall be devoted only to the advancement of education in music, drama and other arts.

Contracts for construction, maintenance and use of buildings.

§ 3. For the purpose of carrying out the provisions of this act, and for paying the expenses of the acquisition of the site and the expenses of any such condemnation proceeding, it shall be the duty of the comptroller of the city of New York, upon being thereunto authorized by the said board of estimate and apportionment, to issue and sell the corporate stock of the city of New York in such amount as may be necessary and at such a rate of interest as may be fixed by said comptroller.

Issue of corporate stock.

§ 4. This act shall take effect immediately.

CHAPTER 565

AN ACT to amend the Greater New York charter, in relation to the planting of trees as a local improvement.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and thirty-three of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, is hereby amended to read as follows:

L. 1901,
ch. 466,
§ 433
amended.

LOCAL BOARD; PROCEEDINGS AFTER PETITION.

§ 433. The local board, after the submission of such petition and consideration of the same, may then, as the petition shall ask, pass a resolution to bridge, to tunnel, to open, to close, to extend, to widen, to regulate, to grade, to curb, to gutter, to flag,

to plant trees on the sidewalks of¹ and to pave streets, to lay crosswalks, and to construct sewers within its district, and generally for such other improvements in and about such streets within its district as the public wants and convenience of the district shall require.

§ 2. This act shall take effect immediately.

CHAPTER 566

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments, which are now a lien upon the real estate of the American Legion in Kings County Building Corporation Incorporated, in Kings county, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of such city approving the same, may, in their discretion, upon such terms as they may deem proper, by unanimous vote, cancel and annul all taxes, assessments and water rents for the year nineteen hundred and twenty-one which are now a lien against the real property owned by the American Legion in Kings County Building Corporation, Incorporated, a corporation organized for the purpose of holding the real property of the American Legion post in Kings county, which latter corporation is organized for patriotic purposes; such real property being known by and as street number one hundred and twenty-three Schermerhorn street in the borough of Brooklyn, city of New York. The comptroller of such city shall mark the city's books in accordance with the determination of such commissioners under the provisions of this act.

§ 2. This act shall take effect immediately.

¹ Words "to plant trees on the sidewalks of," new.

CHAPTER 567

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and water rents which are now a lien upon the property of the New York City Baptist Mission Society, a religious corporation in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may, in their discretion and upon such terms as they may deem proper by a unanimous vote, cancel and annul the taxes and water rents for the year nineteen hundred and fifteen, which are now a lien against the real estate owned by the New York City Baptist Mission Society, a religious corporation, at numbers one hundred and twenty-four to one hundred and twenty-eight, inclusive, Wadsworth avenue, borough of Manhattan, city of New York, known as lot thirty-seven in block twenty-one hundred and sixty-three, section eight, on the land map of the county of New York, whether or not such taxes accrued or became a lien against such property while owned by the New York City Baptist Mission Society or its immediate grantor or predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 568

AN ACT authorizing the commissioners of the sinking fund in the city of New York to cancel and annul certain unpaid taxes upon the real estate, in said city, belonging to the Peoples Hospital.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York are hereby authorized, in their discretion, to cancel and annul any and all taxes heretofore levied and assessed, and now unpaid since January first, nineteen hundred and eight,

upon the real estate in the city of New York used for charitable purposes and belonging to the Peoples Hospital, situated at number two hundred and three Second avenue, and designated on the map of the department of taxes and assessments of said city as in block four hundred and sixty-eight, section two, lot number thirty-six, and the comptroller of the city of New York is hereby directed to mark such taxes and sales for taxes upon the proper assessment books of the city of New York in accordance with the determination of the said commissioners.

§ 2. This act shall take effect immediately.

CHAPTER 569

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the property, in the borough of Richmond, city of New York, owned by The Society for the Relief of Destitute Children of Seamen, a charitable corporation.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes and assessments for the year nineteen hundred and seventeen which are now a lien upon the real estate owned by The Society for the Relief of Destitute Children of Seamen, a domestic corporation, known as lot two (a part of lot formerly numbered one), in block one hundred and one, ward one, volume two, on the land map of the borough of Richmond, city of New York, whether such taxes or assessments accrued or became a lien against such property while owned by said The Society for the Relief of Destitute Children of Seamen or while owned by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 570

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien on the property of All Angels Church, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul the taxes, water rents and assessments for the year eighteen hundred and sixty-nine which are now a lien against the real estate owned by All Angels Church, a religious corporation, known as section four, block twelve hundred and twenty-eight, lot sixty-one on the land map of the borough of Manhattan, city of New York, (formerly known as ward twenty-two, block two hundred and fifteen, lots sixty-one and sixty-two), whether or not such taxes, water rents or assessments accrued or became a lien against such property while owned by said All Angels Church or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents, in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 571

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel all taxes and water rents and penalties which are now a lien upon the property of Saint Joseph's Day Nursery, a charitable corporation in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul the taxes for the year nineteen hundred and

sixteen, second half, and water rents and penalties for the year nineteen hundred and seventeen and nineteen hundred and eighteen, which are now a lien against the real estate owned by Saint Joseph's Day Nursery, a charitable corporation, known and described as section four, block ten hundred and sixty-seven, lot five, on the land map of the city of New York, borough of Manhattan, whether or not such taxes accrued or became a lien against such property while owned by Saint Joseph's Day Nursery or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 572

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation, in the borough of Queens, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York approving the same, may, in their discretion and upon such terms as they may deem proper by a unanimous vote, cancel and annul the taxes and assessments and water rents which are now a lien against the real estate owned by Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, a religious corporation in the borough of Queens, city of New York, known as lot sixteen in block one hundred and twenty-two, ward three, volume six on the land map of the county of Queens, whether or not such taxes, assessments and water rents accrued or become a lien against such property while owned by the Saint John's Protestant Episcopal Church, Incorporated, Flushing, New York, or its immediate grantor or predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 573

AN ACT to authorize the commissioners of the sinking fund of the city of New York to cancel and annul certain unpaid taxes made liens upon real estate in such city while owned by New York Nursery and Child's Hospital, a charitable institution in said city.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York are hereby authorized, in their discretion, to cancel and annul any and all taxes heretofore levied and assessed, and now unpaid since January first, nineteen hundred and nine, upon real estate situated in the borough of Richmond, in the city of New York, and designated prior to the year nineteen hundred and seventeen as ward two, plot thirty, lot one hundred and fifty, and since the year nineteen hundred and seventeen designated as ward two, block seven hundred and fifty-two, lot one, on the land map of the city of New York applicable to the borough of Richmond, which taxes accrued or became a lien against such property while owned by New York Nursery and Child's Hospital, a charitable institution in the city of New York. The comptroller of the city of New York shall mark the city's assessment books and rolls of taxes in accordance with the determination of the commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 574

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes which are now a lien upon the property of Saint Mark's Hospital of New York city, a charitable institution in the city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by unanimous vote cancel and annul all taxes, for the year nineteen hundred and twenty which are now a lien against the real estate owned by

St. Mark's Hospital of New York city, a charitable institution, whose property is used exclusively for hospital purposes, which said real estate is known and designed* as section two, block four sixty-seven, lot forty-one on the land map of the city of New York.

The comptroller of the city of New York or such other officer of said city as shall have control thereof, shall mark the said city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 575

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments which are now a lien upon the real estate of the Diocesan Missions of Long Island situated at Steinway in the county of Queens, borough of Queens and city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York approving the same may in their discretion and upon such terms as they may deem proper cancel and annul all taxes and assessments which are now a lien against or upon the real estate owned by the Diocesan Missions of Long Island, a religious corporation, known as all those four certain lots, pieces or parcel of lands, situate, lying and being in the borough of Queens of the city of New York, and in the county of Queens in the state of New York, and known and distinguished on a certain map entitled "Map of property in the fifth ward of Long Island City, Queens county, New York," made by Peter G. Van Alst, city surveyor, for Steinway and Sons of the city of New York, dated November first, eighteen hundred and seventy-three, and filed in the office of the clerk of the said county of Queens, November twelfth, eighteen hundred and seventy-four, by the number† twenty, twenty-one, twenty-two, and twenty-three in block number thirty-seven. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under this act.

§ 2. This act shall take effect immediately.

* So in original. [Evidently should be "designated."]

† So in original. [Letter "s" omitted.]

CHAPTER 576

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are a lien upon the property of the Church of the Mediator, a religious corporation, in the borough of the Bronx, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul all taxes, assessments and water rents which are now a lien against the real estate owned by the Church of the Mediator, a religious corporation, known as lot thirty-eight, block three thousand four hundred and six, section thirteen, on the land map of the city of New York. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 577

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien upon the property of the Congregation Sherith Israel of Janina, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes, which are now a lien against the real estate owned by the Congregation Sherith Israel of Janina, a religious corporation, known as section six, block seventeen hundred and forty-five, lot sixty-six on the land map of the borough of Manhattan, city of New York, whether or not such taxes, water rents or assessments accrued or became a lien

St. Mark's Hospital of New York city, a charitable institution, whose property is used exclusively for hospital purposes, which said real estate is known and designed* as section two, block four sixty-seven, lot forty-one on the land map of the city of New York.

The comptroller of the city of New York or such other officer of said city as shall have control thereof, shall mark the said city's books and rolls of taxes in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 575

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes and assessments which are now a lien upon the real estate of the Diocesan Missions of Long Island situated at Steinway in the county of Queens, borough of Queens and city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York upon the written certificate of the comptroller of the city of New York approving the same may in their discretion and upon such terms as they may deem proper cancel and annul all taxes and assessments which are now a lien against or upon the real estate owned by the Diocesan Missions of Long Island, a religious corporation, known as all those four certain lots, pieces or parcel of lands, situate, lying and being in the borough of Queens of the city of New York, and in the county of Queens in the state of New York, and known and distinguished on a certain map entitled "Map of property in the fifth ward of Long Island City, Queens county, New York," made by Peter G. Van Alst, city surveyor, for Steinway and Sons of the city of New York, dated November first, eighteen hundred and seventy-three, and filed in the office of the clerk of the said county of Queens, November twelfth, eighteen hundred and seventy-four, by the number† twenty, twenty-one, twenty-two, and twenty-three in block number thirty-seven. The comptroller of the city of New York shall mark the city's books and rolls of taxes and assessments in accordance with the determination of the said commissioners of the sinking fund under this act.

§ 2. This act shall take effect immediately.

* So in original. [Evidently should be "designated."]

† So in original. [Letter "s" omitted.]

CHAPTER 576

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are a lien upon the property of the Church of the Mediator, a religious corporation, in the borough of the Bronx, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote, cancel and annul all taxes, assessments and water rents which are now a lien against the real estate owned by the Church of the Mediator, a religious corporation, known as lot thirty-eight, block three thousand four hundred and six, section thirteen, on the land map of the city of New York. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 577

AN ACT authorizing the commissioners of the sinking fund of the city of New York to cancel and annul all taxes, water rents and assessments which are now a lien upon the property of the Congregation Sherith Israel of Janina, a religious corporation, in the borough of Manhattan, city of New York.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The commissioners of the sinking fund of the city of New York, upon the written certificate of the comptroller of the city of New York, approving the same, may, in their discretion and upon such terms as they may deem proper, by a unanimous vote cancel and annul the taxes, which are now a lien against the real estate owned by the Congregation Sherith Israel of Janina, a religious corporation, known as section six, block seventeen hundred and forty-five, lot sixty-six on the land map of the borough of Manhattan, city of New York, whether or not such taxes, water rents or assessments accrued or became a lien

against such property while owned by said Congregation Sherith Israel of Janina or by any predecessor in interest. The comptroller of the city of New York shall mark the city's books and rolls of taxes, assessments and water rents in accordance with the determination of the said commissioners of the sinking fund under the provisions of this act.

§ 2. This act shall take effect immediately.

CHAPTER 578

AN ACT to amend chapter three hundred and sixty-two of the laws of nineteen hundred and twenty, entitled "An act to regulate sessions of the board of supervisors of Oneida county and to fix the compensation of the members thereof," in relation to the salary of the chairman, and authorizing the election of a hearing clerk for such board.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1920,
ch. 362,
§ 3
amended.

Section 1. Section two of chapter three hundred and sixty-two of the laws of nineteen hundred and twenty, entitled "An act to regulate sessions of the board of supervisors of Oneida county and to fix the compensation of the members thereof," is hereby amended to read as follows:

Time of
organiza-
tion.

Chairman;
election,
salary, fees,
expenses.

Clerk and
employees.

§ 2. Hereafter the organization of the board shall be on the second Wednesday after the first Monday of the month of January, or adjourned day or days following, at which time a permanent chairman shall be elected who shall serve one year, and in case of the death, removal, resignation or retirement of such chairman, a successor shall be elected for the unexpired term. He shall receive an annual salary of six hundred dollars in addition to his salary as supervisor,¹ and in addition thereto he shall be allowed all fees and mileage as supervisor, the same to be paid as other county charges are paid. He shall also receive his actual and necessary expenses in going to and from his residence to his office in the county building when the board of supervisors is not in session. At the organization of such board in each year hereafter, it shall elect a clerk, an assistant clerk and messenger, whose salaries shall be fixed by the board and who shall hold office at the pleasure of such board.

§ 2. This act shall take effect immediately.

¹ Words "in addition to his salary as supervisor," new.

CHAPTER 579

An act to amend chapter six hundred and sixty-seven of the laws of nineteen hundred and ten, entitled "An act to amend, revise and consolidate the charter of the village of Ossining," generally.¹

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section thirty-one of chapter six hundred and sixty-seven of the laws of nineteen hundred and ten, entitled "An act to amend, revise and consolidate the charter of the village of Ossining," as last amended by chapter one hundred and twelve of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

L. 1910,
ch. 687,
§ 31,
subd. 1, as
amended by
L. 1921,
ch. 112,
amended.

§ 31. Compensation of officers.

1. The president and trustees shall receive no compensation for their services; the police justice shall receive not exceeding two thousand five hundred dollars per year, payable in equal monthly payments; the chief of police shall receive not exceeding two thousand dollars per year, payable in equal monthly payments; the lieutenant of police shall receive not exceeding one thousand eight hundred dollars per year, payable in equal monthly payments; and the policemen shall receive as compensation for their services, for the first year not exceeding one thousand four hundred dollars, for the second year, one thousand five hundred dollars, for the third year not exceeding, and each year thereafter not exceeding, the sum of one thousand seven hundred dollars, payable in equal monthly payments. Said salaries to be fixed and determined by the board of trustees.

§ 2. Section thirty-seven of such chapter, as amended by chapter one hundred and fifteen of the laws of nineteen hundred and twenty, is hereby amended to read as follows:

§ 37, as
amended by
L. 1920,
ch. 115,
amended.

§ 37. Duties and compensation of clerk. The clerk shall attend at his office daily during the usual business hours, and at other times as directed by the board of trustees. He shall attend and act as clerk at all meetings and elections of the inhabitants and trustees, record their proceedings, keep all books and papers, and the seal of the corporation, and deliver the same to his successor on demand, and copies of all papers duly filed in his office, and transcripts from the records of the proceedings of the board of trustees or police court certified by him under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced; and for certifying the same he shall be entitled to receive ten cents per folio from the person requiring the same. The books and papers under his custody and control shall always be pro-

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1917, ch. 86; L. 1920, ch. 115.

duced for inspection to any person that may be interested therein. He shall attend to the publication of by-laws, rules, ordinances, and notices which the trustees shall direct; notify all persons of their election or appointment to office under this act, and perform such other duties as the trustees may, from time to time, lawfully direct. He shall also furnish the treasurer of said village immediately after each meeting at which any drafts have been ordered upon the treasurer, a list of names and amounts of such drafts, and to what fund charged and payable from. Under the direction of the trustees, the clerk shall also keep a complete set of books which shall show the exact financial condition of the corporation, and said books shall be open to the inspection of all inhabitants and taxpayers at all reasonable times. He shall also act as clerk of the police court as hereinafter specified. In case of the absence of the clerk from any meeting of the inhabitants of said village, authorized by this act, or of said trustees, such persons as shall be chosen or appointed therefor by the trustees, shall on such occasions perform the duties appertaining to such clerk. For his services as clerk of the village, he shall receive an annual salary of not exceeding twenty-five hundred dollars, payable as hereinafter provided; and for his services as clerk of the police court he shall receive an annual salary of not exceeding seven hundred dollars, payable out of the police fund. Such salary shall be payable in equal monthly installments.

§ 59, as
amended by
L. 1920,
ch. 115,
amended.

§ 3. Section fifty-nine of such chapter, as last amended by chapter one hundred and fifteen of the laws of nineteen hundred and twenty,² is hereby amended to read as follows:

§ 59. **Annual taxes.** Upon the expiration of such fifteen days, the board of trustees is empowered to assess, levy and collect upon the real and personal property within the limits of said village, appearing on said assessment-roll, the following taxes and assessments, namely:

1. A sum not exceeding ten mills on every dollar of assessed valuation, as shown by the assessment-roll of said village, in any fiscal year to be expended to defray the expenses of the said village, of which at least twenty thousand dollars shall be appropriated for the maintenance of streets and highways.

2. Such sum or sums as may be necessary to pay the interest on any and all highway improvement bonds and the principal thereof at maturity.

3. Such sum or sums as may be necessary to pay the interest on any or all sewer bonds and the principal thereof at maturity, and such further sums as may be required for the necessary repairs of sewers.

4. Such sums as may be necessary to pay the interest on any and all other bonds, and certificates of indebtedness issued in payment of permanent improvements, and the principal thereof at maturity.

5. The amount required for the maintenance of the police department, which shall be determined and fixed by the said board of trustees after the annual charter election.

² Previously amended by L. 1914, ch. 65.

6. The several amounts of money to be assessed, levied and collected for sewers, macadamizing, paving and improving streets of said village or other local improvements therein.

7. An additional tax exceeding the several amounts before mentioned may be authorized by a majority vote of the taxable inhabitants of the said village qualified to vote therefor, voting at any election called for that purpose. The object of said tax, and the amount thereof shall be specified on the ballot.

8. Such sums as may be sufficient to defray the expenses of the board of health for the current year.

9. Such sums as may be lawfully required by the board of water commissioners of the said village.

10. Such sums as may be necessary to pay any judgment against the said village.

11. If by reason of the actual or alleged error in, or omission of taxable property from the assessment-roll of the last preceding year, any taxes authorized and intended to be levied thereby are not paid, or if a special tax warrant has been returned and the taxes or any part thereof levied thereby remain unpaid, the amount thereof may be levied upon the same property or against the same persons upon the annual assessment-roll of the current year. The completed assessment-roll shall be presumptive evidence of the facts therein stated.

§ 4. Section seventy-five of such chapter is hereby amended to read as follows: § 75
amended.

§ 75. **Public vehicle tax.** Every person who shall be engaged within the corporate limits of the village during any part of the year in the running of public carriages, cabs, hacks, drays, carts, express wagons or other vehicles for the transportation for hire of persons or property must obtain an annual license from the village clerk and pay therefor the sum of two dollars per year, for one vehicle operated and one dollar for each additional vehicle operated by such person, which license shall be collected under the direction of said board of trustees, and shall be applied and appropriated by them to the work of repairing of the streets and bridges in said village.

§ 5. Section one hundred and three of such chapter is hereby amended to read as follows: § 103
amended.

§ 103. **Board may pave streets.** The board of trustees is hereby authorized and empowered to macadamize or pave any street, avenue, or highway in said village, and may, by resolution, determine to pave any such street, avenue or highway. Said board of trustees is hereby authorized and empowered to make such changes in the grade of such streets, avenues or highways, and construct any drain or culvert that may be necessary for the proper macadamizing or paving of said streets, avenues or highways, and the cost of such change of grade and construction of any such drain or culvert, and any damages occasioned thereby upon the lines of said streets, avenues or highways, or any property abutting thereon, shall be considered as part of the cost of such macadamizing and paving.

§ 104
amended.

§ 6. Section one hundred and four of such chapter is hereby amended to read as follows:

§ 104. **Paving upon petition.** The board of trustees in addition to the power vested in said board by the last preceding section of said act, is hereby authorized and empowered upon a petition signed by a majority of the owners of property fronting on any streets, avenue or highway in said village, to macadamize or pave such street, avenue or highway, and for that purpose the said board of trustees is hereby authorized and empowered to change or regulate the grade of such streets, avenue or highways as may be necessary for the proper macadamizing or paving such streets, avenues or highways, and the cost of such change of grade, or any damages occasioned thereby on the line of said street, avenue or highway, or to any property abutting thereon, shall be considered as part of the cost of such macadamizing or paving.

§ 105
amended.

§ 7. Section one hundred and five of such chapter is hereby amended to read as follows:

§ 105. **Expense of paving; how apportioned.** Whenever said board of trustees shall macadamize or pave any street, avenue or highway in said village, under the authority granted in sections one hundred and three and one hundred and four of this act, two-thirds of the cost and expense thereof shall be paid by bonds of said village to be issued as provided in section one hundred and eight of this act, and the remaining one-third of the cost shall be paid for by the property benefited in proportion to such benefit; except that if such macadamizing or paving shall have been done in pursuance of section one hundred and four, the one-third of the cost thereof not borne by the village shall be paid for by the property abutting upon such street, avenue or highway in proportion to the benefit.

§ 108
amended.

§ 8. Section one hundred and eight of such chapter is hereby amended to read as follows:

§ 108. **Issue of bonds.** The board of trustees may from time to time issue bonds for such sums as may be necessary to pay two-thirds of the expense of macadamizing or paving the said streets of the village of Ossining, provided that the aggregate amount of such bonds shall not exceed the sum of two hundred thousand dollars; such bonds shall be of such denomination as the board of trustees shall determine; bear interest at not exceeding five per centum per annum, and mature in sums not exceeding twenty-five thousand dollars in any one year. The board of trustees shall convert such bonds into money at not less than their par value or may obtain temporary loans on the same and the proceeds therefrom shall be used only for the payment of two-thirds of the cost of such macadamizing or paving. The board of trustees shall have no power or authority to incur any expense or contract any debt for the macadamizing or paving of any of the streets of the village of Ossining except out of the general expense fund, after the expenditure of the said sum of two hundred thousand dollars. But a further issue of bonds, and a further expenditure of money for the macadamizing and paving of said streets

may be authorized by a vote of the qualified taxpayers of said village, at any election duly called and held.

§ 9. Said chapter is hereby amended by inserting at the end of article four a new section, to be section one hundred and fifteen, to read as follows: § 115
added.

§ 115. **Payment of assessments in installments.** Whenever any part of the cost of macadamizing, paving or otherwise improving any street, avenue or highway shall be borne or paid by property benefited by the provisions of this act, and which shall have been levied in the manner provided in section one hundred and two of this act, the amount of the assessment so levied and assessed may be paid in one payment by the owner of the premises or property upon which such assessment is levied, or the amount of said assessment may be paid in five equal installments, one in each year of the succeeding five years, together with interest on the amount of such assessment, or of any unpaid installments thereof, which installments shall be levied with and included in the annual tax levies for such year. Such assessment, or unpaid installments thereof, shall bear interest at the rate of six per centum per annum from the date of the confirmation thereof; and the board of trustees is hereby authorized and empowered pending the collection of such assessments, or installments thereof, to issue certificates of indebtedness for the amount necessary therefor, which certificate of indebtedness shall bear interest, not to exceed six per centum per annum, and to be issued for a term not exceeding five years; to be signed by the president and clerk of the said village and to be sold at not less than par. Such certificates of indebtedness shall be and become a lien upon all the taxable property, both real and personal, within said village, and the board of trustees is hereby authorized and directed to raise from time to time by tax such sum or sums of money as may be necessary to pay interest on such certificates of indebtedness, and the principal thereof at maturity, provided the amount has not been collected from the real property assessed therefor. Or, the board of trustees, in their discretion, may issue and sell assessment bonds of the said village of Ossining in a sum sufficient to pay so much of the cost of such improvement as is levied upon the property benefited thereby, payable in not exceeding five equal annual installments, bearing interest not exceeding six per centum per annum. Such bonds shall be in such form and shall be executed in such manner as the board of trustees may provide, and shall be payable from time to time by tax upon the taxable property in the village of Ossining in such sum or sums as may be necessary to pay the interest upon such bonds, and the principal thereof at maturity, provided the amount has not been collected from the real property assessed therefor.

§ 10. This act shall take effect immediately.

now existing or which may hereafter exist have and shall have power to enter into service-at-cost contracts as herein defined.

11. Approval of service-at-cost contracts by public service commission. Any party to a service-at-cost contract, as herein defined, upon ten days' written notice, served in the manner provided by the civil practice act for the service of a summons, to the other party or parties to such contract, may present such contract to the public service commission for its approval. The public service commission shall have the power to approve such contract and any agreement purporting to be such a contract, if entered into between the proper parties subsequent to the first day of July, nineteen hundred and twenty, so presented to it upon filing proof of service of notice of presentation as hereinbefore provided. Upon approval by the public service commission, every such contract is and shall be valid and binding as between the parties thereto as of, from and on the day of the date of the execution thereof, in all respects and for all purposes therein expressed, and no provision of any law, general or special, unless the contrary effect shall be specifically stated in any general or special law which shall hereafter take effect, shall or be deemed to interfere with or affect such service-at-cost contract or any provision thereof, or the performance and carrying out of such contract and each and every provision thereof. The execution of any such existing service-at-cost contract and all acts thereunder are, upon the approval of such contract by the public service commission, validated.

§ 2. **Application of act.** This act shall apply only to municipal corporations having a population of less than one million inhabitants according to the last preceding federal census, anything to the contrary herein notwithstanding.

§ 3. This act shall take effect immediately.

CHAPTER 583

AN ACT to empower the city of Rome to borrow funds to pay certain debts.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Issue of
special
certificates
of indebted-
ness to
pay certain
claims,
authorized.

Section 1. Notwithstanding any provision in the charter of the city of Rome, or in any other law, general or special, the city of Rome is hereby authorized to borrow moneys by the issue of special certificates of indebtedness, the amount of which shall be included in the next annual estimate, to pay claims now outstanding against the city, appropriations for the payment of which were not included in the annual budget for the year nineteen hundred and twenty-two and for the payment of which no provision has been made, as follows:

Claims arising during nineteen hundred and twenty-one in the department of public welfare, three thousand four hundred and forty-seven dollars and forty cents; claims arising during nineteen hundred and twenty-one in the department of public works, one thousand seven hundred and fifty-three dollars and ninety-four cents; claims for repairing, lighting and heating the city hall, three hundred and twenty-one dollars and twenty-two cents; claim of special counsel employed during nineteen hundred and twenty-one by the city, eight hundred and fifty-six dollars and ninety-six cents; printing for nineteen hundred and twenty-one, one hundred and twenty-one dollars and seventy-three cents; agreements entered into for the payment to certain land owners for permission to sewer into Wood creek during the year nineteen hundred and twenty-one, seven thousand six hundred and eighty-nine dollars and seventy cents; the salary of one police patrolman together with bonus for nineteen hundred and twenty-two, which amount was omitted from the budget for the year nineteen hundred and twenty-two, one thousand five hundred dollars; shortage in estimated revenues and receipts as shown in the budget for the year nineteen hundred and twenty-two caused by shortage in the estimated unexpended balance in the amount of five thousand five hundred and fifteen dollars and eighty-four cents; the total amount of claims, liabilities and shortages for which the city of Rome is hereby authorized to borrow being forty-one thousand two hundred and six dollars and seventy-four cents.

§ 2. This act shall take effect immediately.

CHAPTER 584

AN ACT to amend the surrogate's court act, in relation to the release of sureties, and repealing certain sections thereof, in relation to the same.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and nine and one hundred and ten of the surrogate's court act are hereby repealed and in their place a new section is inserted, to be section one hundred and nine, to read as follows:

§ 109. **Release of surety.** 1. The surety or sureties, or the representatives of any surety or sureties, upon the bond heretofore or hereafter executed, or any trustee, guardian, executor, administrator or other fiduciary, taken as prescribed in this act, shall be entitled as a matter of right to be, and shall be, discharged from liability as hereinafter provided, and to that end, on notice to the principal named in such bond, may apply to the court that accepted such bond, praying to be relieved from liability as such surety or sureties, for the act or omission of such

§§ 109, 110
repealed;
§ 109
added.

principal, occurring after the date of such order relieving such surety or sureties, and that such principal be required to give new surety and to account, whereupon a citation shall be issued citing such principal to attend upon such application. Pending the hearing of such application, the court may restrain such principal from acting except to preserve the trust estate, until further ordered.

2. Upon the hearing of such application, if the principal does not file a new bond in the usual form to the satisfaction of the court, the court must make an order requiring the principal to file a new bond within such reasonable time, not exceeding five days, as the court in such order may fix. If such new bond shall be filed upon such hearing or within the time fixed by such order, the court must thereupon make a decree or order requiring the principal to account for all his acts and proceedings to and including the date of such order, and to file such account within a time fixed, not exceeding twenty days, and releasing the surety or sureties making such application from liability upon the bond for any act or default of the principal, subsequent to the date of such decree or order. If the principal fail so to file such new bond within the time specified, a decree or order must be made revoking the appointment of such principal or removing him and requiring him to so account and file such account within twenty days.

3. If the principal fail to file his account as in this section provided, such surety or sureties, or the representatives thereof, may make and file such account with like force and effect as though made and filed by such principal, and upon the settlement thereof credit shall be given for all commissions, costs, disbursements, and allowances to which the principal would be entitled were he accounting, and allowance shall be made to such surety or sureties or representative for the expense incurred in so filing such account and procuring the settlement thereof.

4. After filing the account as required or permitted in this section, the court, upon the petition of the principal or surety or sureties or the representatives of any such surety or sureties, must issue a citation addressed to all persons interested in the estate or trust funds, to show cause at a time and place therein specified, why such account should not be judicially settled; and upon the trust fund or estate being found intact or made good and paid over or properly secured, the surety or sureties shall be discharged from any and all further liability, and the court shall settle, determine, and enforce the rights and liabilities of all parties to the proceedings. Upon demand made in writing by the principal, such surety or sureties, or the representatives thereof, shall return any compensation that has been paid for the unexpired term of such suretyship.

§ 2. This act shall take effect immediately.

CHAPTER 585

AN ACT to amend the charter of the city of Tonawanda, in relation to the collection of taxes.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title eighteen of chapter three hundred fifty-seven of the laws of nineteen hundred and five is hereby amended, by inserting therein after section three thereof, eight new sections, to be three-a to three-h, both inclusive, to read, severally as follows:

§§ 2a-2h
added to
L. 1905,
ch. 257,
tit. 18.

§ 3-a. **Notice of unpaid taxes; demand of payment.** If any such tax shall remain unpaid after the expiration of ninety days from the first publication of the notice specified in section three of title eighteen of this act, the city treasurer shall forthwith serve or cause to be served upon the persons against whom such tax remains charged a written notice requiring him to pay the same to the city treasurer within ten days from the service of such notice. Such notice may be served upon any such persons personally, or by leaving at his residence in said city, or by depositing it in the post-office in said city, properly enclosed in a postpaid wrapper, directed to him at his reputed place of residence. It shall not be necessary to make any other demand of payment of said tax.

§ 3-b. **Sale of land for unpaid taxes.** Whenever any such tax, penalty or interest, or any part of either of them, shall remain unpaid on the first day of December, and the common council shall not direct the collection of the same by foreclosure, it may direct that the city treasurer proceed to advertise and sell the lands upon which the same was imposed for the payment of such tax, penalty or interest, or the part remaining unpaid, and the expense of such sale, as hereinafter prescribed, shall also be made a charge upon such lands.

§ 3-c. **Notice of sale of land for taxes.** The city treasurer shall cause to be published a notice of such sale containing a description of the lands to be sold as it appears on the tax roll and specifying the time and place of sale, in the official newspaper of the city, once a week for at least six consecutive weeks, immediately prior to the day of sale, and shall also post such notice of sale in at least three public places in the city at least forty-two days before the day of sale. On the day named the city treasurer shall commence the sale of such lands, and shall continue such sale from day to day until the whole thereof shall be sold. Before the sale the owner of any parcel of land, or his representative, or any person interested therein, may avoid the sale thereof by paying the tax or taxes to the city treasurer with all accrued interest, fees, additions and expenses,

§ 3-d. **Manner of conducting sale of land for taxes.** Each parcel shall be sold at public auction to the highest bidder. The purchasers on such sale shall pay the amounts of their respective bids to the city treasurer immediately after each parcel shall be struck off. In case a purchaser shall fail to pay the amount of his bid, as herein prescribed, the city treasurer shall forthwith offer the parcel for sale again, and proceed as though it had not been struck off. Should there be no bid of the amount due on any lot or parcel of land to be sold, then the city treasurer shall bid in the same for the city, and the city is hereby authorized to acquire said parcels, and the common council shall have the care and control of all such parcels and may lease or sell and convey the same. As soon as practicable after the sale, the city treasurer shall prepare and execute in duplicate, as to the parcel sold, a certificate of such sale, describing the parcel purchased by a brief general description of the location, boundary and estimated quantity thereof, and stating the fact of the sale, the name of the purchaser, the sum paid therefor, the amount due thereon at the time of the sale, the name of the person or persons against whom such tax was assessed and the name of the reputed owner thereof. One of said duplicates shall be delivered to the purchaser, or, in case the parcel was struck off to the city, then it shall be retained by the city treasurer. The city treasurer shall deliver the other duplicate certificate to the clerk of the county of Erie who shall file said certificate in his office and record the same in a book kept for that purpose, and shall index the certificate in the name of the person to whom the parcel was assessed, the name of the reputed owner thereof, and in the name of the purchaser in the same book and manner as deeds are required by law to be indexed. The county clerk shall be entitled to receive a fee of fifty cents for each certificate so filed and recorded, which fee shall be paid by the city treasurer and shall be a part of the expenses of the sale of the parcel. If from any cause the city treasurer shall be unable to attend at the time and place of sale, the city clerk of said city may conduct the sale with the same force and effect as though made by the city treasurer.

§ 3-e. **Disposition of proceeds of sale.** The proceeds of the sale of each parcel, other than those struck off to the city, shall be applied to the payment of the expenses of the sale as herein provided, and the extinguishment of the tax, penalty or interest for which it was sold, and if there shall be any residue, the city treasurer shall hold the same until the owner of the premises at the time of the sale shall redeem them from the sale as herein provided, and the city treasurer shall pay such owner the surplus. In all other cases the city treasurer shall hold the same until after the period of redemption shall have expired and then he shall pay such surplus, and the person or persons entitled thereto shall be ascertained in the same manner and by the same proceedings as in the case of surplus on statutory foreclosure of a mortgage on real estate. In case any taxes shall be assessed and levied on real estate which has been sold for taxes, subsequent to

such sale, and before the redemption thereof or conveyance thereof to the purchaser and the same shall be unpaid, the city treasurer may deduct the amount thereof from any surplus in his hands of the sum bid for the same, if there be any surplus; if there be no surplus or the same shall be insufficient to pay such taxes, the person redeeming shall pay the same, otherwise the purchaser shall pay the same before he shall receive his conveyance of the same.

§ 3-f. **Redemption of lands.** The owner of, or any person interested in or having a lien upon, any parcel or lot so sold, may redeem the same from such sale at any time within two years by paying to the city treasurer for the use of the purchaser or his assigns or, if they shall have been redeemed by any person other than the owner thereof, then for the use of such person, the sum mentioned in the certificate as having been bid for the premises, with interest thereon at the rate of ten per centum per annum from the day of the sale, together with any tax or assessment upon said parcel or any part thereof that the said purchaser or assigns or persons before redeeming shall have paid between the day of sale and the day of redemption, with interest at the rate of ten per centum per annum upon such tax or assessment from the time of payment. The time during which such redemption may be made shall not commence to run against infants or incompetent persons, until the termination of their disability. In case of the redemption of any land sold for taxes, as herein provided, by the person who was the owner thereof at the time of the sale, the city treasurer shall give such owner a receipt for the amount paid by him to effect such redemption, and on the production thereof by such owner to him, the county clerk shall cancel the certificate of sale by a proper entry at the foot of the record of such certificate in his office.

§ 3-g. **Notice of redemption.** At least three months before the expiration of the time for the final redemption of any parcels or lots so sold, the city treasurer shall commence the publication of a notice of redemption from such sales, which shall show the year when the sale took place, and the last day for the redemption of the lands not already redeemed by the owners, without other or further description, and such notice shall be published at least twice in each of said three months, in the official newspaper of the city. A copy of such notice shall be served personally on the owner or the occupant of the lands, or, if unoccupied, posted on the premises, at least twenty days before the expiration of such time for final redemption. The publication and service of such notice shall bar and preclude any and all persons except the purchaser on such sale, or his assigns, or the person finally redeeming, from claiming any interest in or lien upon such lands or any part thereof, in case the said lands shall not be redeemed from such sale hereinbefore provided.

§ 3-h. **Conveyance of lands sold for taxes.** If any parcel or lot so sold shall not be redeemed as herein provided, the city treasurer, immediately after the expiration of the said two years,

shall execute and deliver to the purchaser, his heirs or assigns, or to the city or its assigns, or to the person finally redeeming, as the case may be, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an estate in fee, subject only to the liens, if any, of unpaid taxes or assessments thereon. The city treasurer executing such conveyance shall be entitled to demand and receive from the grantee two dollars for preparing every such conveyance, but all purchases made for the city in any year shall be included in one conveyance, and no fee shall be charged therefor. Every such conveyance shall be executed by the city treasurer and the execution thereof shall be acknowledged before some officer authorized to take and certify acknowledgments of instruments for record in said county, and such conveyance shall be conclusive evidence that the sale and subsequent proceedings were regular and presumptive evidence that all the previous proceedings were regular and according to law. Any such conveyance may be recorded in like manner and with like effect as any other conveyance of real estate. The said grantee or his assigns, or the city or its assigns, as the case may be, shall be entitled to have and to possess the granted lands from and after the execution of such conveyance, and may cause the occupants of such lands to be removed therefrom and the possession thereof delivered to them in the same manner and by the same proceedings and by and before the same officers as in the case of a tenant holding over after the expiration of his term without permission of his landlord.

§ 2. This act shall take effect immediately.

CHAPTER 586

AN ACT to amend the village law, in relation to public parks.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 31
added to
L. 1908,
ch. 64,
§ 80.

Section 1. Section eighty-nine of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended by inserting therein after subdivision thirty, as added by chapter four hundred and sixty-four of the laws of nineteen hundred and twenty-one, a new subdivision, to be subdivision thirty-one, to read as follows:

31. Public parks. May establish and maintain a public park; and for that purpose, if there be no public land in such village available for public park purposes, may, upon the adoption of a proposition therefor, duly submitted, acquire title to real property for such purpose, by purchase, or if unable to agree with the owners for the purchase, to acquire such real property by condemnation in the manner provided by the condemnation law.

§ 2. Section one hundred and one of such chapter is hereby amended by inserting therein, after subdivision five, a new subdivision, to be subdivision five-a, to read as follows: Subd. 5a
added to
§ 101.

5-a. The park fund, composed of all moneys received from taxation or otherwise for the purchase, acquisition, construction, care and maintenance of a public park.

§ 3. Section one hundred and ten of such chapter, as amended by chapter four hundred and fifty-four of the laws of nineteen hundred and nineteen, is hereby amended by inserting therein, after subdivision three, a new subdivision, to be subdivision three-a, to read as follows: Subd. 3a
added to
§ 110.

3-a. Such sum as the board deems necessary to meet expenditures for maintenance of a public park for the current fiscal year, not exceeding the sum of two thousand dollars.

§ 4. This act shall take effect immediately.

CHAPTER 587

AN ACT to provide for extending the boundaries of the city of Utica by annexing thereto a part of the town of New Hartford, and to provide for the government of the annexed territory, and for the payment of school and sewer bonded indebtedness.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All that part of the town of New Hartford herein bounded and described is hereby annexed to and shall form a part of the city of Utica, to wit:

Beginning at a point in the center of the Sauquoit creek in the southerly boundary line of the lands belonging to the Sauquoit Spinning Company, said point of beginning being also in the southwesterly boundary of the seventeenth ward of the city of Utica, thence running northwesterly along the southwesterly boundary line of the said Sauquoit Spinning Company's land to the northwesterly corner of the said land, thence northeasterly along the northwesterly boundary line of the said Sauquoit Spinning Company's lands, to the center of the Sauquoit creek, thence northerly down the center of the said Sauquoit creek to and passing through the center of the concrete pier in the middle of the girder bridge of the West Shore railroad and continuing thence down the center of the said creek to its intersection with the northerly boundary line of the lands of the New Hartford sewage disposal plant, thence easterly along said northerly boundary line to the westerly right-of-way line of the New York Mills branch of the West Shore railroad, thence southeasterly along said right-of-way line to the point where the said westerly right-of-way line of the said New York Mills branch intersects a line parallel to and one hundred and twenty feet northerly from the

Certain described part of town of New Hartford annexed to Utica.

shall execute and deliver to the purchaser, his heirs or assigns, or to the city or its assigns, or to the person finally redeeming, as the case may be, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an estate in fee, subject only to the liens, if any, of unpaid taxes or assessments thereon. The city treasurer executing such conveyance shall be entitled to demand and receive from the grantee two dollars for preparing every such conveyance, but all purchases made for the city in any year shall be included in one conveyance, and no fee shall be charged therefor. Every such conveyance shall be executed by the city treasurer and the execution thereof shall be acknowledged before some officer authorized to take and certify acknowledgments of instruments for record in said county, and such conveyance shall be conclusive evidence that the sale and subsequent proceedings were regular and presumptive evidence that all the previous proceedings were regular and according to law. Any such conveyance may be recorded in like manner and with like effect as any other conveyance of real estate. The said grantee or his assigns, or the city or its assigns, as the case may be, shall be entitled to have and to possess the granted lands from and after the execution of such conveyance, and may cause the occupants of such lands to be removed therefrom and the possession thereof delivered to them in the same manner and by the same proceedings and by and before the same officers as in the case of a tenant holding over after the expiration of his term without permission of his landlord.

§ 2. This act shall take effect immediately.

CHAPTER 586

AN ACT to amend the village law, in relation to public parks.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-nine of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended by inserting therein after subdivision thirty, as added by chapter four hundred and sixty-four of the laws of nineteen hundred and twenty-one, a new subdivision, to be subdivision thirty-one, to read as follows:

31. Public parks. May establish and maintain a public park; and for that purpose, if there be no public land in such village available for public park purposes, may, upon the adoption of a proposition therefor, duly submitted, acquire title to real property for such purpose, by purchase, or if unable to agree with the owners for the purchase, to acquire such real property by condemnation in the manner provided by the condemnation law.

Subd. 31
added to
L. 1909,
ch. 64,
§ 30.

§ 2. Section one hundred and one of such chapter is hereby amended by inserting therein, after subdivision five, a new subdivision, to be subdivision five-a, to read as follows: Subd. 5a added to § 101.

5-a. The park fund, composed of all moneys received from taxation or otherwise for the purchase, acquisition, construction, care and maintenance of a public park.

§ 3. Section one hundred and ten of such chapter, as amended by chapter four hundred and fifty-four of the laws of nineteen hundred and nineteen, is hereby amended by inserting therein, after subdivision three, a new subdivision, to be subdivision three-a, to read as follows: Subd. 3a added to § 110.

3-a. Such sum as the board deems necessary to meet expenditures for maintenance of a public park for the current fiscal year, not exceeding the sum of two thousand dollars.

§ 4. This act shall take effect immediately.

CHAPTER 587

AN ACT to provide for extending the boundaries of the city of Utica by annexing thereto a part of the town of New Hartford, and to provide for the government of the annexed territory, and for the payment of school and sewer bonded indebtedness.

Accepted by the City.

Became a law April 11, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. All that part of the town of New Hartford herein bounded and described is hereby annexed to and shall form a part of the city of Utica, to wit:

Beginning at a point in the center of the Sauquoit creek in the southerly boundary line of the lands belonging to the Sauquoit Spinning Company, said point of beginning being also in the southwesterly boundary of the seventeenth ward of the city of Utica, thence running northwesterly along the southwesterly boundary line of the said Sauquoit Spinning Company's land to the northwesterly corner of the said land, thence northeasterly along the northwesterly boundary line of the said Sauquoit Spinning Company's lands, to the center of the Sauquoit creek, thence northerly down the center of the said Sauquoit creek to and passing through the center of the concrete pier in the middle of the girder bridge of the West Shore railroad and continuing thence down the center of the said creek to its intersection with the northerly boundary line of the lands of the New Hartford sewage disposal plant, thence easterly along said northerly boundary line to the westerly right-of-way line of the New York Mills branch of the West Shore railroad, thence southeasterly along said right-of-way line to the point where the said westerly right-of-way line of the said New York Mills branch intersects a line parallel to and one hundred and twenty feet northerly from the

Certain described part of town of New Hartford annexed to Utica.

center line of the West Shore railroad, thence easterly along said line parallel to and one hundred and twenty feet northerly from the said center line of the West Shore railroad to the northerly blue line of the abandoned Chenango canal, thence easterly along the said blue line to the southerly line of the right of way of the New York, Ontario and Western railway, said right-of-way line being the northerly boundary line of the seventeenth ward of the city of Utica and southwesterly along the said boundary line of the seventeenth ward of the city of Utica to the place of beginning.

To consti-
tute part
of 17th
ward.

Unpaid
taxes.

§ 2. The territory above described, when annexed to the city of Utica, shall constitute a part of the seventeenth ward of said city and all laws applicable to the city of Utica, not inconsistent with the provisions of this act, shall apply to such territory. All unpaid taxes heretofore levied against said annexed territory and existing at the time this act shall take effect shall be due and payable and collected in all respects the same as if this law had not been enacted.

Bonded in-
debtedness
of school
and sewer
districts.

§ 3. The bonded indebtedness of school district number two of the town of New Hartford, including principal and interest, which exists when this act takes effect, and the bonded indebtedness, including principal and interest of the sewer district number one of the town of New Hartford, which exists at the time this act takes effect, shall be a charge upon and shall be paid by the city of Utica to the treasurers of said school and sewer districts.

Property
belonging
to town or
any
district.

§ 4. All the property, real and personal, belonging to the town of New Hartford, or to any common or union school district or to any sewer, fire, lighting or water district within said territory, and all property, real and personal, appurtenant to such districts, respectively, wheresoever situate shall when such annexation takes effect belong to the city of Utica. All funds and sums of money held by the town of New Hartford or any officer thereof to the credit of said school and sewer districts shall be paid to the city of Utica in the same proportion as the value of such territory so annexed to said city bears to the whole valuation of said school and sewer districts respectively, as shown by the last assessment roll of said town made prior to the passage of this act and by said city shall be refunded to the respective taxpayers of the territory so annexed, in proportion to the assessed valuation as shown by the last assessment roll of said town made prior to the passage of this act, and all funds and sums of money held by the town of New Hartford or any officer thereof to the credit of said town shall be paid to the city of Utica in the same proportion as the value of said territory so annexed to said city bears to the whole valuation of said town as shown by the last assessment roll of said town made prior to the passage of this act and by said city be duly returned to the taxpayers of such annexed territory, in proportion to assessed valuation as shown by the last assessment roll of said town made prior to the passage of this act.

Funds held
by town to
credit of
school and
sewer dis-
tricts, and
to credit of
town.

Village of
New Hart-
ford and
Utica to
own sewage

§ 5. This act shall not in any way affect the right, title and interest of the village of New Hartford of, in and to the sewer and sewage disposal plant within the boundary lines of that part

of the town of New Hartford hereby annexed to the city of Utica. From the time such annexation shall take effect said sewer and sewage disposal plant shall be owned by said village of New Hartford and said city of Utica jointly, as tenants in common thereof, each owning an undivided one-half interest therein with the right to use the same as such, and each shall have an equal voice in the use and management of the same. The control and management of the interest of said city in and to said sewer and sewage disposal plant shall be exercised by the commissioner of public works or other duly authorized officer, of said city as similar property of said city is now by law managed and controlled. The control and management of the interest of said village in and to said sewer and sewage disposal plant shall be vested in the officers of said village as similar property is by law managed and controlled by them, and the commissioner of public works of said city of Utica and the officers of the village of New Hartford may make joint rules and regulations for the management of said sewer disposal plant as may be necessary and proper. Said village and said city shall bear the expenses of maintenance and operation, and should any income be derived from the same, it shall be equally divided between said village and said city. The board of trustees of the village of New Hartford may enter into contract with the officers of the city of Utica in the sale and purchase of the disposal tank by full ownership, and the said village may purchase said tank and pay for same by money raised by the issue of municipal bonds, certificates of indebtedness or otherwise. The city of Utica may enter into contract and sell the undivided interest to and in the aforesaid sewage disposal tank to the village of New Hartford, or its successors or assigns, and they only, and the said city may construct, or cause to be constructed, one or more disposal tanks, upon the lands so jointly owned with the right to acquire or purchase and own in the name of said city in fee simple the necessary lands appurtenant thereto, wherever so situate, and such lands may be purchased and such improvements may be made and the money necessary for the purposes aforesaid may be raised and provided by the issue of municipal bonds, certificates of indebtedness or otherwise.

disposal
plant
jointly.

Control and
manage-
ment.

Mainte-
nance.

Purchase by
village
authorized.

City au-
thorized to
construct
disposal
tanks.

§ 6. The said city shall provide police and fire protection within the territory hereby annexed to said city, together with the collection, removal and disposal of garbage and ashes therefrom and may provide for the payment of such police officers, firemen and other employees employed for this territory and for the collection and removal of garbage and ashes by the issue of municipal bonds, certificates of indebtedness or otherwise, as provided by law applicable to said city for the raising of funds for the purpose aforesaid.

Police and
fire protec-
tion; dis-
posal of
garbage
and ashes.

§ 7. This act shall take effect immediately.

CHAPTER 588

AN ACT in relation to the elections, constituting chapter seventeen of the consolidated laws.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER 17 OF THE CONSOLIDATED LAWS.

ELECTION LAW.

- Article
1. Short title; definitions (§§ 1, 2).
 2. Party organization (§§ 10-21).
 3. Election officials (§§ 30-51).
 4. Proceedings preliminary to registration, enrollment and elections (§§ 60-94).
 5. Forms of ballots and returns; absentee voting; preservation of books and papers (§§ 100-124).
 6. Designation and nomination of candidates (§§ 130-144).
 7. Registration and enrollment of voters (§§ 150-185).
 8. Conduct of elections (§§ 190-229).
 9. Special provisions relating to voting machines (§§ 240-269).
 10. Canvass of results (§§ 270-279).
 11. Presidential electors; United States senators; representatives in congress (§§ 290-298).
 12. Soldiers and sailors' elections (§§ 300-319).
 13. Campaign receipts, expenditures and contributions (§§ 320-327).
 14. Judicial proceedings (§§ 330-336).
 15. Laws repealed; saving clause and miscellaneous provisions; when to take effect (§§ 340-342).

ARTICLE 1.

SHORT TITLE; DEFINITIONS.

Section 1. Short title.

2. Definitions.

§ 1. **Short title.** This chapter shall be known as the " Election Law."

§ 2. **Definitions.** The terms used in this chapter shall have the signification herein defined unless other meaning is clearly apparent in language or context:

1. The term " political unit " means the state or any political subdivision thereof or therein.

Source.—
Former
election
law, § 1.

Source.—
Former
election
law, § 2.

2. The term "unit of representation" means any election district, town, ward, assembly district, or other political subdivision, which is the unit from which members of any committee or delegates to a party convention shall be elected as provided in this chapter.

3. The terms "primary" or "primary election" mean only the spring primary and the fall primary, except where the term primary occurs in a provision relating only to an unofficial primary.

4. The term "board of elections" shall include a single commissioner of elections in a county having such an officer and the county clerk in any county which by the provisions of this chapter shall have no such board or commissioner, except as otherwise provided in special provisions relating to any such county.

5. The term "party" means any political organization which at the last preceding election for governor polled at least fifteen thousand votes for governor, and after January first, nineteen hundred and twenty-three, any political organization which polled at the last preceding election for governor at least twenty-five thousand votes for governor.

6. The term "nomination" means the selection in accordance with the provisions of this chapter of a candidate for an office authorized to be filled at an election at which official ballots are used.

7. The term "designation" means any method in accordance with the provisions of this chapter by which candidates for party nomination, or for election to party position, may be named in order that they may be placed upon the official ballot for any primary election.

8. The term "official ballot" means the ballot prepared, printed and supplied for use at an election of public officers or a primary election in accordance with the provisions of this chapter.

9. The term "party position" means membership in a party committee or the position of delegate or alternate to a party convention.

10. The term "committee" means any committee chosen, in accordance with the provisions of this chapter, to represent the members of a party in any political unit.

11. The term "independent body" means any organization or group of voters which, by independent certificate, nominates a candidate or candidates for office to be voted for at an election at which official ballots are used, and which is not a party as herein provided.

12. The term "party nomination" means nomination by a party.

13. The term "independent nomination" means nomination by an independent body.

14. Words of the masculine gender include the feminine except where the provision clearly applies to but one sex.

ARTICLE 2.

PARTY ORGANIZATION.

Section 10. Party committees.

11. State committee.
12. County committee.
13. Election of members of state and county committees.
14. Formation of committees other than state and county committees.
15. Organization and rules of committees.
16. Removal of member of committee.
17. Vacancies in state or county committees.
18. Statement by party chairman as to party positions to be filled at primary election.
19. Party funds not to be expended for primary purposes.
20. Emblems; abbreviated names.
21. Delegates to national party conventions.

Source.—
Former
election
law, § 25.

§ 10. **Party committees.** Party committees shall consist of a state committee, county committees, and such other committees as the rules of the party may provide. Existing committees shall continue until their successors are chosen as herein provided.

Source.—
Former
election
law, § 26.

§ 11. **State committee.** The state committee of each party shall be constituted by the election from each assembly district of one member who shall be an enrolled voter of the party within such district. Each member of a state committee shall be entitled to one vote.

Source.—
Former
election
law, § 27,
as amended
by L. 1922,
ch. 96.

§ 12. **County committee.** The county committee of each party shall be constituted by the election in each election district within such county of at least two members and of such additional members as the rules of the party within the county may provide for such district, proportional to the party vote in the district for governor at the last preceding gubernatorial election, or in case the boundaries of such district have been changed or a new district has been created since the last preceding gubernatorial election, proportional to the party vote cast for member of assembly at the last preceding general election. In the counties of New York and Kings, if the county committee of any party, by its rules, is constituted by the election of members from each election district in the county proportionate to the party vote in such district, an additional member shall be elected at large from each assembly district or aldermanic district in such county, if such county committee shall by its rules so provide. In a county in which no additional members are provided for by rules, the voting power of each member shall be in proportion to such party vote. In a county in which additional members are so provided for, on the basis of the party vote in election districts, or from assembly or aldermanic districts, each member shall have one vote. Each member of a county committee shall be an enrolled voter of the party residing in the assembly or aldermanic district from which or in the assembly district containing the election district in which such member is elected,

§ 13. Election of members of state and county committees. Members of the state and county committees shall be elected at primary elections as herein provided. Members of the state committee shall be elected biennially in each even numbered year. Members of county committees shall be elected annually, except that if the rules of the county committee adopted at least six months prior to an election of such members so provided, they may be elected biennially. No such rule shall operate to extend the terms of members in office at the time of its adoption.

Source.—
Former
election
law,
§§ 22, 23.

Members of both committees shall be elected at fall primaries, except that in a year when electors of a president and vice-president of the United States are to be elected, such members of committees shall be elected at the spring primary. The members of both committees shall hold office until the election of their successors. The state committee and county committees of a new political party to serve prior to the first official primary for which members of such party shall have become enrolled shall be formed as provided by the rules of such party.

§ 14. Formation of committees other than state and county committees. All committees other than state and county committees shall be formed in the manner provided for by the rules of the party.

Source.—
Former
election
law, § 23.

§ 15. Organization and rules of committees. Every state and county committee shall within fifteen days after its election meet and organize by the election of a chairman, treasurer and secretary, and such other officers as its rules may provide, and within three days thereafter file with the secretary of state and the board of elections of the county a certificate stating the names and postoffice addresses of such officers. Such officers shall be enrolled voters of the party but need not be members of such committees.

Source.—
Former
election
law, § 40.

Each committee may prepare rules for the government of the party within its political subdivision, which may include provisions for the payment of dues, and that failure to pay them shall be cause for removal by the committee. Within three days after the adoption of such rules a certified copy thereof shall be filed in the office of the secretary of state and in the office of the board of elections of the county. Such rules shall continue to be the rules for the committee until they are amended or new rules adopted. Such rules may be amended from time to time by majority vote of the committee, provided a copy of the proposed amendment shall be sent with the notice of the meeting at which such amendment is to be proposed, such notice to be not less than five days before such meeting, and to be mailed to the postoffice address of each member of the committee. Until the adoption of such rules, the rules of the existing committee, so far as consistent with this chapter, shall continue to be the rules of the party for that political unit.

§ 16. Removal of member of committee. A member of a party committee may be removed by such committee, for disloyalty to the party or corruption in office, after notice and a hearing upon

Source.—
Former
election
law, § 42.

written charges, to be heard by the committee or a subcommittee thereof appointed for that purpose, which shall report its findings to the full committee.

Source.—
Former
election
law, §§ 36,
37, 37a, 42.

§ 17. **Vacancies in state or county committees.** 1. In case of the death, declination, disqualification, removal from district or removal from office of a member of the state or county committee, or the failure to elect a member, as by reason of a tie vote, the vacancy created thereby shall be filled by the remaining members of the committee by the selection of an enrolled voter of the party qualified for election from the unit of representation as to which such vacancy shall have occurred.

2. If the boundaries or designation of assembly districts be changed after the election of members to the state committee, members thereof shall represent for the remainder of their terms the districts in which they respectively reside, where only one such member resides in such district. If no member, or more than one member, reside in the district so changed, there shall be a vacancy from such district. Such vacancy shall be filled, until the next primary election, by the members of the county committee residing in such district, at a meeting of which every member shall have had three days notice by mail from the chairman. At the next primary election any such vacancy shall be filled for the unexpired term by election in the manner provided in this chapter.

3. The county committee, upon its organization after the election of its members, may determine when a vacancy or vacancies in such committee shall be deemed to exist by reason of an increase of the number of election districts within the county, occasioned by a change of the boundaries or the formation of one or more election districts which takes effect after such election, and may determine the districts which the members so elected shall represent for the remainder of their terms; but a member so elected shall represent an election district covering a portion of the territory for which he was elected. A vacancy so determined shall be filled as provided in subdivision one.

Source.—
Former
election
law, § 75.

§ 18. **Statement by party chairman as to party positions to be filled at primary election.** The chairman of the county committee of each party shall file with the board of elections not later than the seventh Tuesday before a primary election a statement of the party positions to be filled by such party at such primary election, and the number of persons to be elected to each position.

Source.—
Former
election
law, § 562.

§ 19. **Party funds not to be expended for primary purposes.** No contributions of money, or the equivalent thereof, made, directly or indirectly, to any party, or to any party committee or member thereof, or to any person representing or acting on behalf of a party, or any moneys in the treasury of any party, or party committee, shall be expended in aid of the designation or nomination of any person to be voted for at a primary election, either as a candidate for nomination for public office, or for any party position.

Source.—
Former
election

§ 20. **Emblems; abbreviated names.** The state committee of a party shall select an emblem to distinguish the candidates of the

party for public office in all districts of the state, and shall file in the office of the secretary of state a certificate showing the emblem, executed by the chairman and secretary of such committee. The emblem so chosen may be a star, an animal, an anchor, or any other proper symbol, but neither the coat of arms or seal of any state of the United States, nor the state or national flag, nor any religious emblem or symbol, nor the portrait of any person, nor the representation of a coin or of the currency of the United States, nor any emblem substantially similar to that of any other existing party or independent body shall be chosen as such emblem. Emblems heretofore chosen pursuant to law shall continue until changed as provided in this section. If the name of any party shall contain more than fifteen letters, the state committee shall similarly select and certify an abbreviated form thereof, containing not more than eleven letters, to be used upon the ballot whenever the necessities of space so require.

law.
§§ 124, 125,
331, 397.

§ 21. **Delegates to national party conventions.** Delegates and alternates to a national convention of a party shall be elected from congressional districts, or partly from the state at large and partly from congressional districts, as the rules of the party may provide. Such delegates and alternates from the state at large shall be elected at a state convention to be constituted, held and conducted in the manner provided by this chapter for state conventions, for the nomination of party candidates for public office to be voted for by all the voters of the state. District delegates and alternates to national party conventions and delegates, and alternates, if any, to such a state convention shall be elected at the spring primary.

Source.—
Former
election
law, § 53.

ARTICLE 3.

ELECTION OFFICIALS.

Section 30. Boards of elections; qualifications of commissioners; appointment and removal; term.

31. Recommendations for appointment of commissioners of elections.

32. Commissioner of elections not to be candidate for certain offices.

33. Salaries of commissioners of elections.

34. Organization of board; proceedings and reports; records.

35. General office and branches.

36. Employees of board of elections.

37. Police to aid board of elections; copies of records to be furnished to it.

38. Board and members may issue subpoenas; oaths.

39. Special provisions as to county clerks acting as boards of elections in certain counties.

40. Election officers; kind, number and qualifications.

41. Appointment of election officers in cities.

42. Examination as to qualifications of election officers in cities.

43. Party selection in the city of New York.

Section 44. Oath of office; certificate of appointment.**45. Removals; vacancies; transfers.****46. Certificates of service; exemptions from jury duty; payment.****47. Special penalties.****48. Appointment of inspectors of election in towns; clerks.****49. Fees of election officers and others.****50. Monroe county; board of elections and special provisions.****51. Niagara county; board of elections and special provisions.**

Source.—
Former
election
law,
§§ 190, 191.

§ 30. Boards of elections; qualifications of commissioners; appointment and removal; term. There shall be a board of elections in the city of New York, and there shall be a board of elections in each county except a county in the city of New York and except a county having, by the provisions of its charter, but one commissioner, or in which the county clerk acts as a board of elections. The board of elections of the city of New York shall be deemed to be also the board of elections for each county in such city. In the city of New York the board shall consist of four commissioners of elections, to be appointed by the board of aldermen of that city. Elsewhere, in a county having a population of less than one hundred and twenty thousand, the board shall consist of two commissioners of elections, and in any other county of two or four commissioners of elections as the board of supervisors, by resolution, may determine, to be appointed by the board of supervisors. Not more than two commissioners, if the board consist of four members, and not more than one commissioner, if the board consist of two members, shall belong to the same political party or be of the same political opinion on state or national issues. The commissioner of elections, while holding such office, may hold one of the following offices: notary public, commissioner of deeds, police justice of a village, trustee or officer of a common or union school district outside of a city, justice of the peace of a town, and any other office filled by election or appointment within or for a town or village, or district or subdivision of either, except supervisor, town clerk, inspector of election, or election district clerk. Such commissioner shall not hold, while he is commissioner, any other office, except as above provided. Each commissioner of elections shall be at the time of his appointment a resident and a voter of the political unit for which he is appointed.

The certificate of appointment of a commissioner of elections shall be filed in the office of the clerk of the county, or, in the city of New York, in the office of the clerk of the county of New York, and the county clerk shall immediately notify the secretary of state of the appointment. All appointments of commissioners shall be for a term of two years, beginning on January first of each odd numbered year.

A commissioner of elections may be removed from office by the governor for cause in the same manner as a sheriff. Any vacancy in the office of commissioner of elections shall be filled by the

board of supervisors of the county, or, in the city of New York, by the board of aldermen, within five days after the filing of the certificate provided for in the next section, and the person appointed to fill such vacancy shall hold office during the remainder of the term of the commissioner in whose place he was appointed.

§ 31. **Recommendations for appointment of commissioners of elections.** At least five days before the first day of January in each odd numbered year, the respective chairmen of the county committees within the counties of New York and Kings, and, except as otherwise provided in this article, the respective chairmen of the county committees of all the other counties in the state, of each of the two political parties which at the general election last preceding the date of such certificate cast the highest and the next highest number of votes for governor, shall each respectively make and file in the case of the counties of New York and Kings with the board of aldermen of the city of New York, and in the case of each of the other counties with the board of supervisors of such county a certificate in substantially the following form, each of which certificates shall certify the name of a person who is a resident and qualified voter, in the case of the counties of New York and Kings, of the city of New York, or in the case of the other counties a resident and qualified voter of the county, and who is recommended as a fit and proper person to be appointed a commissioner of elections: "I, ..., chairman of the county committee of the party, for the county of, do hereby, in accordance with the provisions of the election law, certify that in the opinion of a majority of such committee, pursuant to a resolution duly adopted, ..., a resident and qualified voter of the borough of, city of New York, or the county of, is a fit and proper person to be appointed a commissioner of elections, and I do hereby recommend him for appointment to such office. In witness whereof, I have made and executed this certificate, this day of, 19...." Each of such certificates shall be duly acknowledged by the person executing the same.

Source.—
Former
election
law,
§§ 194, 195.

If at any time a vacancy occurs in the office of any commissioner of elections, by death, resignation, removal or inability to serve, the chairman of the county committee of the political party to which such commissioner belonged, and if he was a commissioner of elections of the city of New York and a resident of the borough of Manhattan or of the borough of the Bronx, the chairman of the county committee of New York county, of his party, or if he was a resident of any other borough of such city, the chairman of the county committee of Kings county, of his party, shall likewise make and file a certificate in substantially the form and executed and acknowledged as above provided, recommending the name of a qualified person to fill the vacancy.

§ 32. **Commissioner of elections not to be candidate for certain offices.** A commissioner of elections shall not be a candidate, while he is commissioner, for any elective office which he would not be entitled to hold under the provisions of this article, nor after

Source.—
Former
election
law, § 191.

he has ceased, by resignation or otherwise, to be commissioner, if the election shall occur within fifty days therefrom; and any votes cast for any person for any such office who shall have been a commissioner of elections within fifty days of the election shall be void and shall not be counted, except that such commissioner may be a candidate for the office of supervisor or town clerk while he is commissioner, and at any time thereafter, subject to the following provisions of this section. Any votes cast for a person for either of such offices who shall have been a commissioner of elections, and who shall have resigned from or otherwise ceased to hold the office of commissioner at least fifteen days before the election, shall be valid and shall be counted.

Source.—
Former
election
law, § 192.

§ 33. **Salaries of commissioners of elections.** Each commissioner of elections in the city of New York shall receive a salary of six thousand dollars a year, payable by the city. Each commissioner of elections outside of such city shall receive from the county an annual salary to be fixed by the board of supervisors.

Source.—
Former
election
law,
§§ 192, 208,
209.

§ 34. **Organization of board; proceedings and reports; records.** The commissioners, at their first meeting, shall organize as a board by electing one of their number as president and one as secretary, and in case no election can be had the members shall draw lots for such places. The president and secretary shall not belong to the same party. Every board shall adopt an official seal and shall cause a description of it with impressions from it to be filed in the office of the secretary of state. The records of the boards, and papers and books filed in its office are public records. Minutes of all meetings shall show how each commissioner voted upon any resolution or motion. The board shall keep a record of its proceedings and shall make in the month of January an annual report to the secretary of state of the affairs and proceedings of the board. It shall append to such report a statement of the number of voters enrolled with each party for that year in each assembly district, and such data as may be valuable relating to the expenses connected with registration, enrollments and elections within the county or city and such other information relating to elections as the secretary of state may prescribe. The board of elections of a county outside of the city of New York shall also in the month of January make an annual report of its affairs and proceedings to the board of supervisors.

Source.—
Former
election
law,
§§ 192, 207.

§ 35. **General office and branches.** The board of elections in the city of New York shall maintain an office in the borough of Manhattan, which shall be the headquarters of such board, and an office in each other borough of the city. Elsewhere, in each county, the board of supervisors shall provide the board of elections for such county with proper and suitable offices. Each office shall be open every business day during office hours to be designated by the board.

Source.—
Former
election
law,
§§ 194, 197.

§ 36. **Employees of board of elections.** Every board of elections may appoint and at pleasure remove clerks and other employees, prescribe their duties and fix their rank. In the city of New York, within the amounts appropriated therefor, and else-

where within the amounts authorized by the board of supervisors, the board of elections also may fix the number and salaries of its employees, it being the intention of this article, and said intention is hereby declared, to secure in the appointment of the members and employees of the board of elections other than voting machine custodians, equal representation of the two political parties which at the general election next preceding such appointment cast the highest and the next highest number of votes for governor.

§ 37. Police to aid board of elections; copies of records to be furnished to it. The commissioner of police and the officers and members of the police force whenever called upon by the board of elections, shall render to such board all practicable assistance in the enforcement of this chapter, including the use of the police telephone service. The commissioner of police shall detail to the service of the board of elections upon its written request such patrolmen and other members of the police force as may be necessary from time to time. Every public officer shall furnish to the board of elections, without charge, such copies of the official records, in his custody, certified by him, as it may require.

Source.—
Former
election
law, § 129.

§ 38. Board and members may issue subpoenas; oaths. The board of elections and any of the commissioners thereof may require any person to attend before the board or a commissioner at the office of the board or a branch office and be examined by the board or a commissioner as to any matter in relation to which the board is charged with a duty under this chapter or concerning violations of this chapter, or of the provisions of the penal law relating to the elective franchise, and may issue a subpoena therefor. When an oath is required or permitted by this chapter any commissioner, or any employee of the board designated in writing by it, may administer such oath.

Source.—
Former
election
law,
§§ 209, 207.

§ 39. Special provisions as to county clerks acting as boards of elections in certain counties. The foregoing provisions of this article shall not apply to the counties of Broome, Oneida, Westchester, Suffolk and Nassau, excepting sections thirty-seven and thirty-eight. In each of such counties, except as otherwise provided in this section, the county clerk shall have therein the powers and duties of a board of elections, as well as those of a county clerk. Notwithstanding the provisions of any other statute, either general or local, the board of supervisors of Broome county may from time to time provide by resolution for the appointment by the county clerk of such county of additional assistants at the expense of the county, in the office of such clerk, and the board of supervisors of Oneida county may in like manner provide for the appointment by the county clerk of Oneida county of two additional deputies representing each of the two political parties which at the last general election preceding such appointment cast the highest and the next highest number of votes for governor and of additional assistants whenever such board of either county, respectively, shall determine that such deputies or assistants are necessary for the proper performance of the additional duties devolved upon such clerk by this section; but the

Source.—
Former
election
law, § 209a.

aggregate compensation of such additional assistants appointed on account of such additional powers and duties in the county of Broome shall not exceed one thousand dollars annually, and of such deputies and assistants in the county of Oneida shall not exceed an amount to be limited by the board of supervisors.

In Westchester county, the county clerk of such county may appoint one deputy, in addition to those authorized under the county law, to act generally for and in his place on all election matters under a department hereby created and designated the county election department of the office of the county clerk of Westchester county. He may also appoint one secretary for such department and such other emergency employees as shall be required. Such deputy, secretary and emergency employees shall hold office during the pleasure of such clerk and shall be paid such compensation as the board of supervisors of such county shall fix, the aggregate of which, exclusive of the compensation to be paid the emergency employees, shall not exceed three thousand four hundred dollars.

In Suffolk and Nassau counties, respectively, the county clerk of each such county may appoint and at pleasure remove one deputy in addition to those authorized under the county law to act generally for and in his place on all election matters under a department hereby created and designated the county election department of the office of the county clerk of Suffolk county, or Nassau county, as the case may be, and the compensation of such deputy shall be fixed by the board of supervisors of the county.

Source.—
Former
election
law, § 202.

§ 40. Election officers; kind, number and qualifications. 1. Elsewhere than in the city of New York, there shall be in every election district of the state four inspectors of election, and, except in an election district in which one voting machine is used, two clerks. Their terms of office, except as hereinafter prescribed shall be one year from the date of their appointment. The term of office of inspectors of election in towns shall be two years. Such officers shall serve at every general, special or other election, including a primary election, held within their districts during such term, except that clerks, if any, shall not serve at primary elections.

2. In the city of New York there shall be in every election district four inspectors of election. Their terms of office shall be for one year from the first day of September. The inspectors of election shall serve at every election, including a primary election, during the year. In such city there shall also be two clerks in every election district in which a voting machine is not used, who shall serve only at general elections, and only from the close of the polls to the completion of the canvass.

3. No person shall be appointed an inspector of election or clerk who is not a qualified voter of the county, if within the city of New York, or of the city, if in any other city, or of the town, in which he is to serve, of good character, able to speak and read the English language understandingly, and to write it legibly, and who does not possess a general

knowledge of the duties of the office to which he is elected or appointed, or who is a candidate for any office to be voted for by the voters of the district in which he is to serve, or who has been convicted of a felony and not restored to citizenship, or who holds any public office except that of notary public or commissioner of deeds, town or village assessor, justice of the peace, police justice of a village, village trustee, water commissioner, officer of a school district, employee of a state hospital, or overseer of highways, whether elected or appointed, or who is employed in any public office or by any public officer whose services are paid for out of the public money other than is excepted herein; provided, however, that a public school teacher, otherwise qualified, shall be eligible to such an appointment, unless the authorities of the school shall file a written objection to such appointment with the appointing board or officer.

4. Each class of such officers shall be equally divided between the two political parties which at the general election next preceding that for which such officers are to serve, cast the highest and the next highest number of votes.

§ 41. Appointment of election officers in cities. The board of elections of the city of New York and the mayor of each other city shall, on or before the first day of September of each year, select and appoint election officers for each election district therein, and may fill any vacancy which may occur before the opening of the polls on election day.

Source.—
Former
election
law,
§§ 303, 304.

Each political party entitled to representation in any board of election officers may, not later than the first day of July in each year, file with such board or mayor an original list of persons, members of such party duly qualified to serve as election officers. A supplemental list of persons may also be filed containing not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments for such districts are made and certified by such board or mayor or when a vacancy shall exist in the original list by reason of the disqualification, resignation, declination, or withdrawal of the name by the person or persons submitting the same, of any person on such list. All appointments shall be made from the original list if those named therein are found qualified; if not so qualified, then from a supplemental list so filed. If, within ten days after notice in writing by the board or mayor to the chairman of the committee or other person by whom the list is filed or authenticated, such chairman or other person shall neglect to file an additional list, the board or mayor may appoint qualified persons, members of the party in default, to act as election officers.

In the city of New York such lists shall be authenticated and filed by the chairman, or, under his direction, by the secretary, of the county committee of the party in the respective counties within such city; in other cities, by the chairman or secretary of the general city committee of such party, if there be such a committee, or if not, then by the chairman or secretary of the county

committee of such party; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party, only that list can be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was recognized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of such party which at the time of the filing of such list is recognized as regular by the state committee of such party.

Source.—
Former
election
law, § 306.

§ 42. **Examination as to qualifications of election officers in cities.** All persons so proposed on behalf of any party for appointment shall be examined as to their possessing the qualifications required by this article. If the appointing power be the board of elections, such examination shall be made by such board. If the appointing power be the mayor, such examination shall be made by the board of elections of the county in which the city is located. Appointments by a mayor shall be subject to the determination of such board of elections as to the qualifications of the persons appointed. Upon making his appointments from party lists the mayor shall certify the names of the persons appointed to the board of elections, accompanied with the name and address of each chairman of a committee or other person by whom each party list was authenticated. The board conducting any examination under this section shall give five days' notice in writing of such examination to the person to be examined, and also to the chairman of the committee or other person by whom the list is filed and authenticated, and such chairman or other person may appear and be heard at such examination, either in person or by counsel. When the appointing authority is the board of elections, if a person so proposed is found qualified, after examination, he shall be appointed, but if he is found disqualified, after examination, notice in writing to that effect shall be given by the board, within three days after such disqualification is determined, to the chairman of the committee or other person by whom the list embracing the name of the person so disqualified was authenticated, and the vacancy shall be filled by the appointment of a qualified person named in a supplemental list filed on behalf of the same party, except that if a party entitled to representation files no list the appointment may be made without such list, after examination. Where appointments shall have been made by the mayor and certified to the board of elections, such appointments shall be absolute as to persons found qualified by the board of elections. If a person so appointed shall be found by such board to be disqualified, the board forthwith shall give notice thereof to the mayor who shall, within three days thereafter, give notice in writing to that effect to the chairman of the committee or other person by whom the list embracing the name of the person so disqualified was authenticated, and a vacancy shall be deemed to exist therein to be filled by the mayor by the appointment, subject to examination by the board of

elections, of a person named in a supplemental list filed on behalf of the same party, or of a person who is a member of such party, if no list be filed. If a person recommended shall have served as an election official at any previous election, it shall not be necessary for him to be examined.

§ 43. **Party selection in the city of New York.** In the city of New York the members of the board charged with the duty of appointing election officers, who represent the same political party, shall have the exclusive right and be charged with the exclusive duty of selecting from the list submitted, or, in lieu of such list, the members of such party who are to be appointed as election officers.

Source.—
Former
election
law, § 306.

§ 44. **Oath of office; certificate of appointment.** Every person so appointed as an election officer shall, within five days after notice of his appointment, take and subscribe the constitutional and statutory oath of office, which shall be administered, if in the city of New York, by a commissioner of elections, or by any clerk or other employee of said board of elections who shall be designated by said board in writing over the signature of its president to administer such oath of office, and if in any other city, by the mayor thereof or by any other person or persons designated by him for that purpose; and all of said officers, and all clerks or persons so designated by them or him for that purpose, shall be and are hereby authorized and empowered to administer such oath.

Source.—
Former
election
law, § 307.

Every person so sworn as an election officer shall receive a certificate of appointment and qualification, signed by the person who administered the oath, in such form as may be approved by the board or mayor by which or whom he was appointed, and specifying the capacity and the election district in which he is to serve and the date of the expiration of his term of office.

§ 45. **Removals; vacancies; transfers.** Any election officer so appointed may be removed for cause by the board or mayor making the appointment, in which case such removal, unless made while such officer is actually on duty on the day of registration, revision of registration or election, and for improper conduct as election officer, shall only be made after notice in writing to the officer to be removed, which notice shall set forth clearly the reasons for his removal. Neglect to attend to the duties of the office shall be a cause for the removal of any such officer. In cities of the first class, it shall be the duty of the board or mayor making the appointment of an election officer, to remove forthwith such officer, without preferring any charges and without notice to such officer, upon the written request, made within one week before a general or special election, of the official of the political party who certified the name of such election officer, or his successor. All such vacancies so created shall be filled in the same manner as the original appointment was made. Any election officer who shall at any time be appointed to fill a vacancy, which fact shall be stated in his certificate of appointment, shall hold office only during the unexpired term of his predecessor.

Source.—
Former
election
law, § 308.

No election officer shall be transferred from one election district to another after he has entered upon the performance of his duties and no election officer shall serve in any county save that in which he shall reside.

Source.—
Former
election
law, § 309.

§ 46. **Certificates of service; exemptions from jury duty; payment.** The chairman of each board of inspectors of each election district shall, within twenty-four hours of any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons, if any, who served as clerks on election day and the number of days during which the store, building or room hired for registration and election purposes was actually used for such purposes.

All persons appointed and serving as election officers on any of the days of registration or of election in cities of the first class, shall be exempt from jury duty for one year from the date of the general election at which they serve. Such officers shall be paid by the comptroller of the respective cities within thirty days after the election at which such officers served, upon the certificate of the board or mayor appointing them.

If a person recommended and examined for appointment as election officer in a city, or examined therefor without recommendation in the absence of a party list, be found disqualified and be not appointed, as therein provided, and such person shall serve in the same calendar year as inspector at a registration or election or as clerk at an election, under a vacancy appointment, he shall receive no compensation for such services.

Source.—
Former
election
law, § 310.

§ 47. **Special penalties.** Every person appointed as an election officer, failing to take the oath of office, or who shall wilfully neglect or refuse to discharge the duties which he was appointed to perform, shall be liable, in addition to the other penalties prescribed by law, to a penalty of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment, in a court of record, for the benefit of the city. Any election officer who, being removed for cause, shall fail upon demand to deliver over to his successor the register of the voters, or any tally sheets, book, paper, memorandum or document relating to the registration of voters or the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of the city. Any election officer who is removed for neglect of official duties shall forfeit the compensation earned up to the time of such removal. An election officer who is removed for neglect of official duties shall be ineligible to again serve in such capacity for the term of five years; provided, however, that the board or officer having the power of appointment may rehear the charges against such officer at any time before the expiration of two years, and if it be determined that such removal was without sufficient cause such officer shall be again eligible for appointment if otherwise qualified.

§ 48. **Appointment of inspectors of election in towns; clerks.** Inspectors of election in towns shall be appointed by the town board in each year in which a town meeting is held for the election of town officers, and within thirty days thereafter. They shall also be appointed for a new or altered election district before September first, in any year when necessary, such appointment to take effect when the creation or alteration of such district takes effect. Appointments under this section shall be made from lists to be prepared, certified and filed in the manner hereinafter provided, by the two political parties entitled to representation on a board of election officers. The town caucus held by each such political party for the purpose of nominating town officers shall prepare a list containing the names of at least two persons, qualified to serve as inspectors of election, for each election district in such town, which lists shall be certified by the presiding officer and a secretary of such caucus, and filed with the town clerk on or before the last day for filing a party certificate of nomination made by such caucus. If the nominations by any such party for town officers be made at the fall primary, the list for such party shall be made by the members of the county committee residing in the town and shall be certified by the presiding officer of the meeting of such members at which the list was prepared, and such certificate shall be filed with the town clerk on or before the day of the fall primary. From each of the two lists so filed, the town board shall appoint two persons who possess the qualifications prescribed by law for election officers. If in any town more than one such list be submitted on behalf or in the name of the same political party, only that list can be accepted which is certified by the proper officer or officers of the faction of such party which was recognized as regular by the last preceding state convention of such party; or if no such convention was held during the year, by the proper officer or officers of the faction of such party, which at the time of the filing of such list is recognized as regular by the state committee of such party.

Source.—
Former
election
law,
§§ 311, 312.

Such appointment shall be made in writing and filed with the town clerk, who shall forthwith notify each person so appointed of his appointment to such office, in the manner in which he is now by law required to give notice to a person of his election to a town office when his name does not appear upon the poll list at the town meeting at which he was elected to such office. From the additional names, if any, contained on the lists so filed of persons qualified to serve as such, the town board shall appoint inspectors of election in case of the resignation, declination or other incapacity of persons appointed to such office. If such lists contain no additional names of such persons, the town board shall fill vacancies caused by such resignation, declination or other incapacity by appointing persons known, or proved to the satisfaction of a majority of the members of such board to be members of the same political party in which such vacancy occurred. All appointments to fill vacancies shall be made in writing and filed with the town clerk, and notices thereof given by him as hereinbefore provided in the case of an original appointment.

Clerks in towns, for election districts in which the appointment of clerks is authorized by section forty, shall be appointed in the manner provided in section one hundred and sixty.

Source.—
Former
election
law, § 70,
subd. 4;
§ 219.

§ 49. **Fees of election officers and others.** 1. The town clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board. Except in the city of New York, election officers shall be paid, for their services on days of registration, election and primary elections, by the towns or cities in which they serve, a compensation to be fixed by the town board or common council, subject to the limitations prescribed by statute. An inspector of election required to file papers in a county clerk's office, or office of the board of elections, shall, unless he resides in the city or village in which such office is situated, be entitled to receive as additional compensation five dollars, and also four cents a mile for every mile actually and necessarily traveled between his residence and such office in going to and returning from such office.

2. In the city of New York inspectors of election shall each receive eight dollars for a primary election, four dollars for the hours fixed by law for each day of registration from Monday to Friday inclusive, and ten dollars for such hours on the last day of registration, and in election districts where voting machines are used ten dollars for their services at a general election and ten dollars for their services at a special election, and in election districts where voting machines are not used fifteen dollars for such services, respectively. The clerks, if any, shall each receive six dollars for their services after the close of the polls at the general election.

Source.—
Former—
election
law,
§§ 210-212.

§ 50. **Monroe county; board of elections and special provisions.** 1. In the county of Monroe, there shall be a board of elections consisting of one commissioner. Sections thirty and thirty-one, section thirty-four except as to the making of statements and reports to the secretary of state and boards of supervisors, and section thirty-six shall not apply to such county. The county judge, special county judge and surrogate of Monroe county, or a majority of them, shall appoint such commissioner. They shall file in the office of the county clerk a certificate of each appointment, whether for a full term or to fill a vacancy. The commissioner must be a resident voter of such county. The first term of such office shall be the present term, expiring May first, nineteen hundred and twenty-four, and the commissioner heretofore appointed and now in office shall continue to be the commissioner for the remainder of such term unless sooner removed. Thereafter, the term of office shall be for four years, beginning on the first day of May at the expiration of any term. Any appointment to fill a vacancy in such office shall be for the unexpired term. The commissioner may be removed from office by the governor in the same manner as a sheriff. The commissioner may appoint and at pleasure remove such employees with such salaries and compensation, as the board of supervisors of such county may authorize. The commissioner shall adopt an

official seal and shall cause a description of it with impressions from it to be filed in the office of the secretary of state. The records of the commissioner and papers and books filed in his office are public records. The provisions of this section shall be controlling, when inconsistent with other provisions of this chapter. An election or elections within the meaning of this section, include a primary election and every election held in the county, except town meetings, village and school district elections not conducted at the time of and with the general election.

2. The board of elections of such county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all officers in the county of Monroe, in respect of elections and matters preliminary or relating thereto, except those of inspectors and clerks of election and county, city and town boards of canvassers. Such board of elections shall direct the purchase of voting machines, of a kind authorized by law, which shall be selected by such board, to the number authorized from time to time by the proper authorities of a city, town or village, in the county. All voting machines and all appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by the purchasing agent of Monroe county. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, in such county, shall be a county charge, except expenses or parts thereof to be apportioned pursuant to this chapter to a city or town and borne by it, and except compensation of inspectors and clerks of election. However, any city, town or village in such county, by its common council, town board or village trustees, may assume the payment of the cost of purchasing voting machines, and city, town or village obligations may be issued and sold therefor as provided in section two hundred and forty-six.

3. The board of elections of Monroe county upon creating, altering or dividing any election district, shall file in the office of the board and of the proper city or town clerk a certificate showing the boundaries of each district affected. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures under the provisions of article thirteen, relating to such an election, required to be filed with any officer of Monroe county, or political subdivision therein shall be filed with the board of elections. The board of elections shall publish or post, as the case may be, all notices, lists and other matters, relating to elections, required by law to be published or posted in the

county, or a political subdivision therein, except publications made pursuant to section eighty.

4. The chairmen of the county committees of the two parties entitled to representation on a board of inspectors of elections shall each file in the office of the board of elections of Monroe county on or before the first day of April of each year a list of persons who are qualified to serve as election officers. Thereafter, the board, upon three days' written notice, stating the time and place, and sent by mail or messenger, shall examine, orally or in writing, or both, each person named in such lists, as to his qualifications for the office of inspector or clerk, as the case may be. Any person receiving such notice must appear at the time and place stated therein. If a person so examined is found by the board to be qualified and, in the judgment of the board, is a fit and proper person for such office, the board, or an employee designated by the board, shall administer the constitutional oath of office and issue to him a certificate of appointment and he shall serve until his successor is appointed; but if such a person is found disqualified or, in the judgment of the board, is not a fit and proper person for such office, his name shall be stricken from the list. A supplemental list of persons for election officers may also be filed containing not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments for such district are made, or when a vacancy shall exist for any cause, and all appointments shall be made from the original list if those named therein are found disqualified as herein provided; if not so qualified, then from a supplemental list so filed. If no list is filed by a party, and if within three days after notice in writing by the board to the chairman of the county committee of such party, no list is filed, the board may appoint qualified persons, members of the party in default, to act as election officers; and the enrollment of such person shall be sufficient evidence of party affiliation. If a qualified person cannot be obtained for any election office from the list or lists filed by a party, and if within three days after notice in writing by the board to the chairman of the county committee of such party, an additional list is not filed containing the name or names of one or more qualified persons, the board may fill such office by the appointment of a qualified person, a member of the party in default. The board of elections of Monroe county shall have the power on any day of election, registration or primary election to remove from office forthwith any inspector of election or clerk, in such county, for intoxication or failure to perform his duty in a satisfactory manner and to make a temporary appointment to fill the vacancy caused by such removal.

5. The board of elections of Monroe county shall from time to time, as may be deemed necessary, hold a school for the instruction of inspectors of election and clerks. Such school shall not be held at any hour earlier than seven o'clock in the evening and written or printed notice shall be given by the board, by mail, to each inspector of election and clerk stating the time and place such

school will be held. If any inspector of election or clerk shall fail to attend such school after receiving notice thereof, the board may remove him from office and fill the vacancy in the manner provided in this section. Each election officer shall be paid one dollar for the time spent in attending a school of instruction, and the election officers of the towns of Monroe county, if such school be held at any place outside the town in which they respectively reside, shall be paid in addition the car fare going to and returning from the school. The money due an election officer for attending a school of instruction shall be paid at the same time and in the same manner as the pay for his other services.

§ 51. **Niagara county; board of elections and special provisions.** 1. In the county of Niagara, there shall be a board of elections consisting of one commissioner. Sections thirty and thirty-one, section thirty-four except as to the making of statements and reports to the secretary of state and board of supervisors, and section thirty-six, shall not apply to such county. The county judge, county clerk and the district attorney of Niagara county, or a majority of them, shall appoint such commissioner. They shall file in the office of the county clerk a certificate of each appointment, whether for a full term or to fill a vacancy. The commissioner must be a resident voter of such county. The first term of such office shall be the present term, expiring May first, nineteen hundred and twenty-two and the commissioner heretofore appointed and now in office shall continue to be the commissioner for the remainder of such term, unless sooner removed. Thereafter, the term of office shall be five years, beginning on the first day of May at the expiration of any term. Any appointment to fill a vacancy in such office shall be for the unexpired term. The commissioner may be removed from office by the governor in the same manner as a sheriff. The commissioner may appoint and at pleasure remove a deputy commissioner, a secretary and such additional employees as the board of supervisors of such county may authorize, at salaries to be fixed by the commissioner subject to approval by such board. The commissioner shall adopt an official seal and shall cause a description of it with impressions from it to be filed in the office of the secretary of state. The records of the commissioner, and papers and books filed in his office, are public records. The provisions of this section shall be controlling, when inconsistent with other provisions of this chapter. An election or elections, within the meaning of this section, include a primary election and every election held in the county, except town meetings, village and school district elections not conducted at the time of and with the general elections.

2. The board of elections of such county shall have and exercise the powers and duties under this chapter, not inconsistent with this section, of all officers in the county of Niagara, in respect of elections and matters preliminary or relating thereto, except those of inspectors and clerks of election and county, city and town boards of canvassers. Such board of elections shall direct the purchase of voting machines, of a kind authorized by law, which

Source.—
Former
election
law.
§§ 225-234.

shall be selected by such board, to the number authorized from time to time by the proper authorities of a city, town or village, in the county. All voting machines and all appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the board of elections. Such board may cause all necessary repairs and alterations to be made and employ such help as may be necessary in making such repairs and in moving, setting up and caring for all election materials, equipment and appliances, including voting machines. All supplies, equipment or election appliances to be used or furnished by such board shall be purchased by the board. All expenses of such board of elections shall be certified, audited and paid as are other claims against the county, and all expenses connected with elections and matters preliminary or relating thereto, in such county, shall be a county charge, except expenses or parts thereof to be apportioned pursuant to this chapter to a city or town and borne by it, and except compensation of inspectors and clerks of election. However, any city, town or village in such county, by its common council, town board or village trustees may assume the payment of the cost of purchasing voting machines, and city, town or village obligations may be issued and sold therefor as provided in section two hundred and forty-six.

3. The board of elections of Niagara county upon creating, altering or dividing any election district, shall file in the office of the board and of the proper city or town clerk a certificate showing the boundaries of each district affected. All petitions and certificates of nomination or designation, or of declination thereof, for an election to which this section applies, and all statements of receipts and expenditures under the provisions of article thirteen, relating to such an election, required to be filed with any officer of Niagara county, or political subdivision therein, shall be filed with the board of elections. The board of elections shall publish or post, as the case may be, all notices, lists and other matters, relating to elections, required by law to be published or posted in the county, or political subdivision therein except publications made pursuant to section eighty.

4. The chairman of the county committee of the two parties entitled to representation on a board of inspectors of election shall each file with the board of elections of Niagara county on or before the first day of April of each year a list of persons who are qualified to serve as election officers. If a person so named is found by the board to be qualified and, in the judgment of the board, is a fit and proper person for such office, the board, or an employee designated by the board, shall administer the constitutional oath of office and issue to him a certificate of appointment and he shall serve until his successor is appointed; but if such a person is found disqualified or, in the judgment of the board, is not a fit and proper person for such office, his name shall be stricken from the list. A supplemental list of persons for election officers may also be filed containing not more than ten names for each office. Additional supplemental lists for any

election district may be filed at any time before the appointments for each district are made, or when a vacancy shall exist for any cause, and all appointments shall be made from the original list; if those named therein are found disqualified as herein provided; if not so qualified, then from a supplemental list so filed. If no list is filed by a party, and if within three days after notice in writing by the board to the chairman of the county committee of such party no list is filed, the board may appoint qualified persons, members of the party in default, to act as election officers, and the enrollment of such persons shall be sufficient evidence of party affiliation. If a qualified person cannot be obtained for any election office from the list or lists filed by a party, and if within three days after notice in writing by the board to the chairman of the county committee of such party an additional list is not filed containing the name or names of one or more qualified persons, the board may fill such office by the appointment of a qualified person, a member of the party in default. The board of elections of Niagara county shall have the power on any day of election, registration or primary election to remove from office forthwith any inspector of election or clerk, in such county, for intoxication or failure to perform his duty in a satisfactory manner and to make a temporary appointment to fill the vacancy caused by such removal.

5. The board of elections of Niagara county may from time to time, as may be deemed necessary, hold a school for the instruction of inspectors of election and clerks. Such school shall not be held at any hour earlier than seven o'clock in the evening and written or printed notice shall be given by the board, by mail, to each inspector of elections and clerk stating the time and place such school will be held. If any inspector of election or clerk shall fail to attend such school after receiving notice thereof, the board may remove him from office and fill the vacancy in the manner provided in this section. Each election officer shall be paid one dollar for the time spent in attending a school of instruction, and the election officers of the towns of Niagara county, if such school be held at any place outside the town in which they respectively reside, shall be paid in addition the car fare going to and returning from the school. The money due an election officer for attending a school of instruction shall be paid at the same time and in the same manner as the pay for his other services.

ARTICLE 4.

PROCEEDINGS PRELIMINARY TO REGISTRATION, ENROLLMENT AND ELECTIONS.

Section 60. Special reports as to persons in hotels, lodging houses, boarding houses, rooming houses, dwellings and apartments, if required.

61. Regular reports by hotel, lodging-house, boarding house and rooming house keepers, before general election.

62. Investigations as to qualifications of voters.

63. Preparation of challenge lists.

Section 64. Creation and alteration of election districts.

65. Maps or descriptions of election districts.
66. Designation of places for registry and voting.
67. Delivery of election laws to clerks, boards and election officers.
68. Publication by secretary of state of concurrent resolutions proposing constitutional amendments.
69. Certificates by secretary of state and city, village and town clerks as to offices to be filled at general or special election.
70. Certificate by secretary of state of proposed constitutional amendments or other propositions or questions.
71. Certificate by secretary of state as to primary election candidates.
72. Publication by board of elections of notice of primary election.
73. Publication by board of elections of list of polling places in cities for primary elections.
74. Publication of list of places for registration, by board or body designating such places.
75. Publication of lists of registration and polling places in towns in Westchester county.
76. Furnishing by secretary of state of registers and certain blanks for registration.
77. Delivery by board of elections of registers and supplies for registration and enrollment; furnishing by board of certain supplies.
78. Delivery by town clerk of previous registers to inspectors.
79. Duties of board of elections in respect of registers for a new district.
80. Publication by secretary of state of proposed constitutional amendments or other propositions or questions.
81. Publication by board of elections of notices of general and special elections.
82. Certification of nominations by secretary of state.
83. Lists of nominations; posting thereof by town, city and village clerks.
84. Publication by board of elections of lists of nominations.
85. Equipment of registration and polling places by board or body designating such places.
86. Publication of registry lists; distribution thereof.
87. Furnishing by board of elections or city, town or village clerk of supplies for election.*
88. Number of registers to be provided for an election other than a general election, and for a primary election.
89. Poll-books to be furnished when necessary.

* So in original. [Does not conform to section heading.]

Section 90. Distribution of ballots and supplies.

91. Transcripts of enrollment.
92. Publication of enrollment lists.
93. Payment of election expenses.
94. Apportionment of expenses of board of elections outside of New York city.

§ 60. Special reports as to persons in hotels, lodging houses, boarding houses, rooming houses, dwellings and apartments, if required. The keeper of any hotel containing less than fifty rooms and of every lodging house, boarding house or rooming house and the owner or lessee of every dwelling or apartment, when required by the board of elections in the city of New York, the captain of police of the precinct in any other city or elsewhere the sheriff of the county, shall make to such board or officer, within ten days after notification, a sworn report upon a blank to be prepared and furnished by the board of elections, which report shall contain a list giving the name of every person of twenty-one years of age and upward who resides in such hotel, lodging house, boarding house, rooming house, dwelling or apartment, the period that each has resided therein and such other information as may be required by such board or officer. Such board or officer also may require such keeper, owner or lessee at any time to notify the board or officer whenever any of the persons named in such list shall leave such hotel, lodging house, boarding house, rooming house, dwelling or apartment within twenty-nine days before a general, special or primary election. If any keeper, owner or lessee files any report stating that any person has resided upon the premises for a longer period than he has so resided, or stating that any person has so resided, when he has not so resided, such keeper, owner or lessee shall be liable to a civil penalty of one thousand dollars. The board shall furnish a copy thereof to one of the special deputy attorney generals assigned to duty in the city or town, if requested.

Source.—
Former
election
law, § 484

§ 61. Regular reports by hotel, lodging house, boarding house and rooming house keepers, before general election. Every keeper of a hotel, lodging house, boarding house or rooming house in a town or city, shall cause to be kept a register showing the name and residence and the date of arrival and departure of his guests or lodgers and the room, rooms, or bed occupied by them, which register shall have a space on the same line in which each guest or lodger shall sign his name. Not less than forty nor more than sixty days before each general election, the captain of police of each city precinct, except in a city of not more than five thousand inhabitants, shall furnish to the board of elections a list of the hotels, lodging houses, boarding houses and rooming houses in such precinct and the names and addresses of the keepers thereof. The board, not less than thirty-five days before such election, shall mail to the keeper of each such hotel, lodging house, boarding house or rooming house in a city of over five thousand inhabitants within its jurisdiction a blank for the report required

Source.—
Former
election
law, § 480.

by this section. Twenty-nine days before each general election, each keeper of a hotel, lodging house, boarding house or rooming house in such a city shall cause to be made and to be delivered or sent by registered mail to the board of elections a sworn report, containing a detailed description of the premises used as such hotel, lodging house, boarding house or rooming house, including size and character of the building, and, if only part of a building is so used or there be more than one building on the premises, which particular building or part of a building is so used, and the names of the guests or the lodgers therein and all employees and all other persons living therein, including such keeper and the members of his family, who claim a voting residence at or in such hotel, lodging house, boarding house or rooming house, together with the length of time they have been regularly lodging or living therein, the beginning of such residence, the color, age, height, weight, color of hair, marks on face or hands, the complexion and any distinguishing marks or features of face or body whereby such persons may be identified, the place of their nativity, the occupation and place of business of such persons and the room occupied by each such person, and whether such person is a guest, lodger, keeper, owner, lessee, or otherwise, and the signature of each such person. Above the space reserved for the signature of each such person, shall be printed the words "the foregoing statements are true." The affidavit for such report shall be made by the keeper of the hotel, lodging house, boarding house or rooming house, or, in case of his absence or disability, by the person by whom, as manager, agent or employee, the hotel, lodging house, boarding house or rooming house is then actually conducted, and shall include the statement that the signatures of the guests or lodgers in such report were written in the presence of the deponent and that he personally knows them to be the persons therein described.

The keeper of such hotel, lodging house, boarding house or rooming house, or his representative duly deputed thereto, shall question each person lodging or living in such hotel or house as to his intention of claiming such place as a voting residence, and if the person so questioned shall make such claim he shall state the facts regarding himself which are required for the report herein provided for.

When such report is received by the board of elections, the board shall make and shall keep in its office for public inspection a transcript of only so much of the report as will show the names of the persons intending to vote from the hotel, lodging house, boarding house or rooming house and the location of such hotel or house, and shall then deliver the report forthwith to the chief of police, except that before doing so, the board of elections shall furnish a copy thereof to one of the special deputy attorney generals assigned to duty in the city, if he shall have requested it.

§ 62. **Investigations as to qualifications of voters.** 1. Throughout the year, the board of elections of the city of New York and the police authorities of any other city shall ascertain and

keep a record of the persons who by reason of death, removal, conviction or otherwise, have lost the right to vote from the address from which they were registered for the last preceding general election, and the sheriff of the county shall, as to the territory outside of a city, keep a record of such persons of whom he has knowledge or notice. Such police authorities in cities of the first and second class shall use in that connection the pamphlet lists of registered voters for such election. In any city of the third class, the board of elections shall provide such necessary clerical assistance in copying registration lists as the police may require, and in any city the board shall render to a special deputy attorney general, assigned to duty in the city, the facilities in its office. Except in the city of New York, the chief of police of every city and elsewhere the sheriff shall two weeks before the first day of registration transmit to the board of elections a report showing so far as known to such officers the persons whose names are shown on such registration lists who are no longer entitled to vote from the addresses on such lists and the reasons therefor.

2. The board of elections of the city of New York or the chief of police of any other city which or who receives a report as to the persons claiming a hotel, lodging house, boarding house or rooming house as a voting residence, shall, if there is reason to believe that any person whose name is contained in such report is not entitled to vote, cause an investigation as to such person to be made by the police. The report of the police thereon shall be in writing and shall be transmitted forthwith to the board of elections, and if such report shows an apparent case of false registration, the board shall forward a copy thereof forthwith to the district attorney of the county.

3. The police authorities of every city of the first or second class shall make an investigation as to each person registered for the general election and, six days before such election, shall make a brief report to the board of elections as to each such person, which report shall specify whether such person appears to be qualified as a voter, and if not, the reasons therefor. Where card lists made by inspectors of election shall not have been taken by a special deputy attorney general, such report by the police authorities shall be made upon such cards.

4. For the purposes of this section, any member or authorized subordinate of the board of elections of the city of New York, any member of the police force in a city and elsewhere the sheriff and any of his deputies may visit and inspect any hotel, lodging house, boarding house, rooming house, dwelling or apartment and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat and may inspect and copy any register of guests or lodgers or any other documents relating to the registration or qualification of voters.

Source.—
Former
election
law, § 486,
in part.

§ 63. Preparation of challenge lists. 1. The board of elections of the city of New York, from investigations made by it and the police, and from reports if any made to it by any special deputy attorney general, shall prepare for each election district in the city, and the board of elections of each county outside of the city of New York, from the reports of investigations made by the police, sheriff or special deputy attorney general, shall prepare for each election district in which registration is required to be personal, a challenge list containing the names, alphabetically arranged, and addresses of all persons who, by reason of death, removal, conviction or otherwise have lost the right to register from the addresses from which they registered at the last preceding general election which list shall contain a column headed "remarks." Such challenge lists shall be delivered to the respective boards of inspectors with the registers.

2. After the last day of registration in each year and before the day of the ensuing general election, the board of elections of the city of New York, from investigations made by it, the police and any special deputy attorney general, and the board of elections of each county outside of the city of New York, from reports of investigations made by the police, sheriff and any special deputy attorney general, may prepare for any election district or districts within its jurisdiction, and if requested by a special deputy attorney general shall prepare for any such election district or districts specified by him, a challenge list or lists, shall prepare for each election district within its jurisdiction a challenge list containing the names, alphabetically arranged, and addresses of the persons registered during such last preceding registration as to whom there is reason to believe from any such investigation that such persons are not entitled to vote at the election, which list shall contain a column headed "remarks." Such challenge lists shall be delivered to the respective boards of elections with the election supplies.

3. The board of elections shall prepare duplicates of all such challenge lists and keep them and all original challenge lists returned to it by boards of inspectors until after the third general election following their preparation.

Source.—
Former
election
law, §§ 20,
296, 297,
419.

§ 64. Creation and alteration of election districts. In the cities of New York and Buffalo and cities and towns of the counties of Monroe and Niagara, respectively, the creation or the consolidation, division or other alteration of election districts shall be done by the board of elections, and in any other city or town by the common council or town board. Every town or ward, not subdivided into election districts, shall be an election district. Each assembly district in the city of New York, and elsewhere, if paper ballots are to be used, each town having more than five hundred voters and each ward having more than six hundred voters, or, if the voting is to be by machine, each town or ward having more than seven hundred voters, shall be divided into election districts in any year when necessary; provided that if two machines are to be used at the polling place, a town or

ward having not more than one thousand voters need not be divided. Any other town or ward may be so divided when the convenience of voters will be promoted thereby. Any creation, consolidation, division or alteration of election districts in any year shall be made on or before July first, to take effect on the ensuing first day of October, except that when required by the creation or alteration of a political subdivision in which candidates are to be voted for at the fall primary, it shall take effect immediately. In the city of New York, in the case of excessive registration in any year, an election district may be divided to take effect before the general election. Each election district shall be compact in form. It shall not contain portions of two wards, towns, counties, assembly or congressional districts. Except as otherwise provided in a local or special act, it shall not be partly within and partly without a city. It shall not be partly within and partly without a village having five thousand or more inhabitants except with the written approval of the board of elections, filed with the town clerk. As nearly as may be, except as above provided, an election district shall contain four hundred and fifty voters where paper ballots are used, six hundred voters where one voting machine is used and nine hundred voters where two voting machines are used, but it may contain a less number where the convenience of the voters will be promoted thereby, or where that is necessary to enable all the voters to vote for the same offices. When necessary, in order to comply with this section, the election districts into which a town, ward or assembly district is or may be divided may be consolidated, divided or otherwise altered, or new districts may be created, or a town or ward so divided may be made one election district, but the election districts of a town, ward or assembly district shall not be altered or new election districts created because of excessive number of voters in any such election district until such number shall exceed by at least fifty the number above specified.

§ 65. **Maps or descriptions of election districts.** 1. Whenever necessary, a map or separate maps of election districts within a town or ward, or, in the city of New York, within an assembly district, shall be made by the board or body creating or altering the districts so that the map or maps on file at any time will show the existing election districts in such town, ward or assembly district, except that in a town a certified description or descriptions may be made instead of a map or maps, in the discretion of such board. In a city, street corner numbers of the block or blocks defining the extreme boundaries of each election district shall be printed on the map or maps, within or outside the block line or lines, so as to show plainly the highest and lowest street numbers within the election district of every street bounding the district. Copies of such maps or descriptions shall be filed and kept open to public inspection as follows: one in the office of the town or city clerk, except in the city of New York; one in the office and each branch office if any of the board of elections. Surplus copies, if any, of maps of election districts in a city or

Source.—
Former
election
law, § 290.

town may be sold at cost and the proceeds paid to the county, city or town which incurred the expense of preparing the maps.

2. In a city, immediately before the first day of registration in each year, the board or body authorized to create or alter election districts shall cause copies of such map or maps to be posted in such places in the several wards or assembly districts as, in its judgment, will be best suited for informing the voters interested therein, and shall furnish to the inspectors of election in each election district, on the first day of registration in each year, a map or maps showing such election district and at least the adjacent election districts and a list of the registration and polling places in the ward or assembly district. In the week preceding a fall primary, in any year, the board of elections, in its discretion, may cause to be posted, in a city, copies of the map or maps showing the election districts in which the primary is to be held.

3. In a town, after the creation or alteration of any election district therein, the board creating or altering such district shall furnish to the inspectors of election in each election district, on the first day of registration next occurring, a map or description showing such election district and also immediately before the ensuing general election shall cause copies of the map or maps, or description or descriptions, of the election districts in the town to be posted in such places as, in its judgment, will be best suited for informing the voters interested therein.

Source.—
Former
election
law, § 299.

§ 66. **Designation of places for registry and voting.** 1. On the third Tuesday of August in each year, the board or body empowered by this chapter to create or alter the election districts of a city or town shall designate the place in each election district in the city or town at which the meetings for the registration of voters and the elections and primaries shall be held during the year following the ensuing first day of October. A list of the places so designated shall be filed in the office of the board of elections. In a city the place so designated, if a schoolhouse, church, library or other public building, or a portable voting house, may be in a contiguous election district. If an election district is created or altered to take effect before the fall primary, polling places may be designated and previous designations of polling places cancelled, accordingly.

2. Each place so designated shall be of sufficient size to admit and comfortably accommodate at least ten voters at one time outside of the guard-rail and to allow of the placing of the booths, furniture and equipment of such polling place as provided by law.

3. A schoolhouse or other public building or any building exempt from taxation shall be designated, if the use of the same as a registration and polling place will not interfere with its customary use, and if it be so situated as to be convenient to the voters residing in the election district. The expense, if any, incidental to its use under such designation shall be paid like the expense of other registration and polling places. Whenever a school or other public building is located in an election district

and the registration and polling place of such district is not located in a school or other public building, a statement of the reason for not designating such building must be entered by the board charged with the duty of making such designations in its minutes or other record.

4. If the registration shall be so large that the polling place already designated would be unreasonably crowded on election day, the polling place may be changed. Any such change, however, must be made at least ten days before the day of election, and at least five days before election day the board must send by mail a written notice to each registered voter notifying him of such change in the location of such polling place.

5. If any place so designated cannot for any reason be used for such purpose, another suitable place shall be designated forthwith.

6. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building, except that if any city, town or village owns or occupies a building suitable for holding an election there may be as many polling places located in such building as there are rooms which are separated by permanent partitions.

§ 67. **Delivery of election laws to clerks, boards and election officers.** The secretary of state, within ten days after the enactment of any amendment to the election law, shall transmit by mail a copy of such amendment to each board of elections. He shall at least sixty days before each general election prepare a compilation of the election law with explanatory notes and instructions, properly indexed, procure the same to be printed by the legislative printer, and transmit to the board of elections of each county, and to the board of elections of the city of New York, located in the borough of Manhattan, and to the branch office of the board of elections in each of the other boroughs of the city of New York, a sufficient number of copies thereof to furnish one such copy to each member of each such board and to each such branch office and one to each county, town, village and city clerk. He shall likewise prepare, procure to be printed and transmit a compilation of articles seven and eight of this chapter and such other provisions of law as he may deem proper, such compilation to be delivered by the board of elections to each election officer in any such county and said borough. He may likewise procure to be printed and distributed such additional copies of such compilations as may in his judgment be necessary.

Source.—
Former
election
law, § 290.

§ 68. **Publication by secretary of state of concurrent resolutions proposing constitutional amendments.** The secretary of state shall cause each concurrent resolution of the two houses of the legislature agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, and if such resolution does not so state, a statement that the amendment is referred to the legislature to be chosen at the next election, to be published once, three months before such election and thereafter twice in each of the

Source.—
Former
election
law, § 296.

three months next preceding such election in two newspapers published in each county, representing respectively the two parties polling at the last preceding gubernatorial election the highest and next highest number of votes for governor.

Source.—
Former
election
law, § 292.

§ 69. **Certificates by secretary of state and city, village and town clerks as to offices to be filled at general or special election.** The secretary of state shall, at least three months before each general election make and transmit to the board of elections of each county, and of the city of New York, a certificate stating each officer, except city, village and town officers, who lawfully may be voted for at such election by the voters of the county or of such city, or any part thereof. Each city, village and town clerk shall within the same time make and transmit to the board of elections a certificate stating each city, village or town officer, respectively, to be voted for at such election. If any such officer is to be elected to fill a vacancy, the certificate shall so state. The secretary of state shall forthwith, upon the filing in his office of the governor's proclamation ordering a special election, make and transmit to the board of elections in each county in which the special election is to be held, a notice of such proclamation and a like certificate of the officers to be voted for at such special election.

Source.—
Former
election
law, § 294.

§ 70. **Certificate by secretary of state of proposed constitutional amendments or other propositions or questions.** Every amendment to the constitution proposed by the legislature, unless it is otherwise provided by law, shall be submitted to the people for approval at the next general election after action by the legislature in accordance with the constitution. Whenever any such proposed amendment to the constitution or other proposition or question provided by law, to be submitted to a popular vote, shall be submitted to the people for their approval, the secretary of state, at least two months prior to a general election at which such amendment, proposition or question is to be submitted, or twenty days prior to a special election at which such amendment, proposition or question is to be submitted, shall transmit to the several boards of elections a certified copy of the text of such amendment, proposition or question, a statement of the reading form in which it is to be submitted and a statement of the day upon which such election, if a special election, is to be held. Such certified copy shall set out all new matter in italics and inclose in brackets all matter to be eliminated from existing law, and at the bottom of each page shall be appended the words, *Explanation*—Matter in italics is now; matter in brackets [] is old law to be omitted. In addition to the text, such copy shall contain an abstract of such proposed amendment, proposition or question, prepared by the secretary, concisely stating the purpose and effect thereof. The attorney general shall advise in the preparation of such abstract and of the reading form in which the proposed amendment, proposition or question is to be submitted. If more than one such amendment, proposition or question is to be voted upon at such election, such amendments, propositions or questions respectively shall be separately and consecutively numbered.

§ 71. **Certificate by secretary of state as to primary election candidates.** The secretary of state, not later than two days after the third Tuesday before a primary election, shall transmit to each board of elections a certificate stating the name of each candidate to be voted for within the political subdivision of such board, a designation as to whom has been filed in his office, together with the residence of such candidate, the title of the office for which he is named, the name of the party upon whose primary ballot his name is to be placed and the order in which names of candidates are to be printed.

Source.—
Former
election
law, § 51.

§ 72. **Publication by board of elections of notice of primary election.** Each board of elections, in the week ending on the Saturday preceding a primary election, shall publish in two newspapers within the county, representing respectively the two parties polling at the last preceding gubernatorial election the highest and next highest number of votes for governor, a notice specifying the day of such primary election, the hours during which it will be held and the public offices for which nominations are to be made and the party positions which are to be filled at such primary election. If the county contain a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.

Source.—
Former
election
law, § 75.

§ 73. **Publication by board of elections of list of polling places in cities for primary elections.** The board of elections of every county containing a city shall publish on the day of each primary election, in two newspapers within each city in such county, representing respectively the two parties polling at the last preceding gubernatorial election the highest and next highest number of votes for governor, a list of the polling places designated within such city, referring to the election districts by their numbers and wards or assembly districts. If the newspaper be an evening newspaper, such notice shall be published on the day prior to such primary election. In each county in the city of New York the board of elections shall publish in like manner a list of the polling places in such county.

Source.—
Former
election
law, § 75.

§ 74. **Publication of list of places for registration, by board or body designating such places.** The board or body authorized to designate places for registration in any city, other than the city of New York, shall publish on each day of registration a list of the places for registration designated within such city in two newspapers published in such city. The board of elections of the city of New York shall publish on each day of registration a list of such places in the county of New York in ten newspapers published in such county, a list of such places in the counties of Bronx and Queens, respectively, in four newspapers published in such counties respectively, a list of such places in the county of Kings in the newspapers designated to publish corporation notices in the borough of Brooklyn, and a list of such places in the county of Richmond in two newspapers published in such county. The list shall refer to the election districts by their numbers and wards or assembly districts. So far as con-

Source.—
Former
election
law, § 301.

sistent with the provisions of this section, one-half of such newspapers in each such city or, in the city of New York, in each such county, shall represent respectively the two parties polling at the last preceding gubernatorial election the highest and next highest number of votes for governor and shall have a large circulation affording wide publicity. If the newspaper be an evening newspaper the notice shall be published on the last secular day prior to any such day of registration.

Source.—
Former
election
law, § 301a.

§ 75. **Publication of lists of registration and polling places in towns in Westchester county.** The town board in any town in Westchester county may publish within one week next preceding the first day of registration and on the same day of the succeeding week, in a newspaper or newspapers designated by such board, a list of the places of registration within such town, a statement of the days and hours of registration and a brief description of the boundaries of each election district in the town. Such town board also may publish in such newspaper or newspapers on the publication day immediately preceding election day, a notice of the election, a list of the polling places, the date and hours of election and at the discretion of such board a brief description of the boundaries of each election district. The amount to be paid for any of such publications shall be at the rate per folio of seventy-five cents for the first insertion and fifty cents for each subsequent insertion, and if any such publications are printed in type larger than agate the amount to be paid therefor shall not exceed the amount that would be paid if such publication had been set in agate thirty ems to the line. In no publication, however, shall any type smaller than agate be used. The amount to be paid for all such publications shall be a town charge.

Source.—
Former
election
law, § 182.

§ 76. **Furnishing by secretary of state of registers and certain blanks for registration.** The secretary of state shall purchase, whenever he deems it desirable for the best interest of the state, blank registers, with necessary declarations and certificates and brief instructions to inspectors attached thereto, and other blanks enumerated below, so as to provide for the several election districts as follows: four registers for each election district; in book form, ten challenge affidavits, with stubs, and ten duplicates, without stubs, for each election district where registration is required to be personal and five such affidavits, with stubs, and five duplicates, without stubs, for each other election district; identification statements for registration day and similar statements for election day for each election district in a city of over fifteen thousand inhabitants, such statements to be bound in book form, each book to contain not less than twenty-five nor more than fifty statements, on separate sheets consecutively numbered from one upward; a sufficient number of cards for card lists of registered voters in cities of the first and second class; a sufficient additional number of such registers, blanks and supplies to provide for contingencies. The secretary of state, in his discretion, may have the challenge affidavits and duplicates for an election district bound in one

book, each original to be followed by a duplicate with the same number thereon, and provide therewith a sheet of carbon paper.

At least twenty days prior to the first day of registration in each year, he shall transmit a sufficient number of such registers and other blanks to each board of elections of each county and to each branch office of the board of elections in the city of New York. He shall so transmit books of challenge affidavits and identification statements to any board of elections only upon its requisition stating the number required by it.

§ 77. **Delivery by board of elections of registers and supplies for registration and enrollment; furnishing by board of certain supplies.** Each board of elections outside of the city of New York shall deliver to each town or city clerk in its county, by mail or otherwise, at least five days before the first day of registration, the proper number of registers and blanks, received by it from the secretary of state, for each election district of the town or city, and such clerks shall deliver the same to the several boards of inspectors within the town or city before the hour fixed for beginning registration on the first day. In the city of New York the board of elections shall deliver such registers and blanks to the boards of inspectors before such hour.

Source.—
Former
election
law, §§ 7,
156a, 167,
171, 174a,
182.

The board of elections of the city of New York, and elsewhere of each county, shall provide, for each election district in such city or county, one American flag approximately three feet by five in size, enrollment blanks equal in number to the registered voters in the election district and not less than twenty-five nor more than fifty in addition thereto, a ballot box for the reception of marked enrollment blanks, a sufficient number of copies of the constitutional amendments, propositions or questions to be submitted to the voters of the state at the general election, necessary blanks for certificates, other than those printed in the register, as to number of voters registered, and the necessary card slips of extracts from the state constitution to be used for literacy tests. Such board also may provide extra enrollment blanks for emergencies. In determining the number of copies of constitutional amendments, propositions or questions to be provided for election districts where registration is not required to be personal, the board shall estimate the probable number of persons who will appear in person at the several places of registration. The board of elections of the city of New York and of any county containing a city of the first or second class shall provide also stationery for the preparation by inspectors of street lists of registered voters in each such city, which, in the discretion of the board, may contain, in writing or typewriting, street names and numbers, with spaces for writing the names of voters and repeating the street numbers. The board of elections of the city of New York also shall provide enrollment envelopes. Such enrollment blanks, envelopes if any, enrollment box, copies of constitutional amendments, propositions or questions, stationery for lists of registered voters, and, in districts where personal registration is required, card slips for literacy tests shall be delivered to boards of inspectors at the time and in the manner above pro-

vided for the delivery of registers. The board shall deliver the extra enrollment blanks, if any, to the board of inspectors in an election district when the emergency so requires.

Source.—
Former
election
law, § 188.

§ 78. **Delivery by town clerk of previous registers to inspectors.** Each town clerk with whom registers of the last preceding general election in any election district, elsewhere than a district wholly within a village having five thousand inhabitants or more, shall have been filed, shall cause a copy of such register, containing entries of numbers on ballots delivered and voted at such election, to be delivered to the board of inspectors of such district at the opening of its first meeting for the annual registration.

Source.—
Former
election
law, § 182,
in part.

§ 79. **Duties of board of elections in respect of registers for a new district.** When an election other than a general election is to occur in a new or altered election district, the board of elections shall do all things necessary to enable the inspectors to prepare, revise or correct, as may be necessary, the register for such election, which shall be in duplicate unless separate poll-books are to be used at such election. When a primary election is to occur in a new or altered election district, the board of elections shall do all things necessary to furnish the inspectors, at such election, with a list of enrolled voters in such district, in register form, together with the information concerning such voters contained in the registers for the district out of which such new or altered district was formed.

Source.—
Former
election
law, § 201.

§ 80. **Publication by secretary of state of proposed constitutional amendments or other propositions or questions.** The secretary of state shall publish once in each of the four weeks preceding any election at which proposed constitutional amendments or other propositions or questions are to be submitted to the voters of the state, the text of such amendment, proposition or question, a brief statement of the law or proceedings authorizing such submission, a statement that such submission will be made and the reading form in which it is to be submitted, in two newspapers published in each county, except that such publication shall be made in the county of New York, in ten newspapers published in such county and in the counties of Kings, Bronx and Queens in four newspapers published in each county respectively. One of such newspapers in each county shall be one representing the party polling at the last preceding gubernatorial election the highest number of votes for governor, another of such newspapers in each county shall be the one representing the party polling at such election the next highest number of votes for governor, and all such newspapers shall be newspapers of large circulation and affording wide publicity.

Source.—
Former
election
law, § 202.

§ 81. **Publication by board of elections of notices of general and special elections.** The board of elections shall publish once in each of the four weeks preceding a general election, or once in each week succeeding the receipt by the board of the certificate of the secretary of state in respect to a special election called by the governor, and until such election, a notice specifying

the day of the election, and the public officers to be voted for within such county, or any part thereof at such election. In a county outside the city of New York, the board shall publish such notice in the newspapers designated to publish election notices, pursuant to the county law or other statute, and in the city of New York the board of elections shall publish such notices in newspapers published in the several counties within such city to the number and of the party affiliations, or of the kind, specified in section seventy-four. Except in the city of New York, if constitutional amendments, propositions or questions are to be submitted to the voters of the state, the notice shall state that fact and that a copy of each such amendment, proposition or question may be obtained, upon application to the board of elections, by any voter, and the board shall provide a sufficient number of copies thereof for distribution accordingly.

§ 82. **Certification of nominations by secretary of state.** The secretary of state shall, twenty-one days before a general election, or eight days before a special election, certify to the board of elections of each county, and to the board of elections of the city of New York, the name, residence and place of business, if any, of each candidate nominated in any certificate filed with him or by the returns canvassed by him, of a primary election, for whom the voters of any such county or of such city, respectively, may vote, the title of the office for which he is nominated, the name of the party or independent body specified in such certificate and the emblem chosen to distinguish the candidates of the party or body. If a certificate of a nomination to fill a vacancy caused by death be filed with the secretary after the sending of such certificate to the boards of elections, he shall transmit forthwith a statement of such nomination to the proper boards of elections.

Source.—
Former
election
law, § 120.

§ 83. **Lists of nominations; posting thereof by town, city and village clerks.** 1. The board of elections of each county, except those counties which are wholly within the city of New York, shall at least six days before election day send to the town clerk of each town and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, of each candidate whose certificate or petition of nomination has been filed with it or whose nomination has been certified to it, or who has been nominated at a primary election, and the name and also a facsimile of the emblem or device of each party or independent body nominating candidates, to be voted for by the voters of the respective towns and wards. However, the lists shall not include the names of candidates for the office of presidential electors, but instead thereof such candidates shall be described as a specified number of presidential electors, nominated to support the party candidates, naming them, for the office of president and vice-president. Such town clerk or alderman shall at least three days

Source.—
Former
election
law,
§§ 131, 132.

before the day of election, conspicuously post such lists in one or more public places in each election district of such town or ward, one of which lists shall be so posted at each polling place.

2. Each town and village clerk shall cause at least ten copies of a like list of all candidates nominated in any certificate filed with him for an election to be held at a time other than the day of the general election to be posted conspicuously in ten public places in the town or village, at least one day before the town meeting or village election, one of which lists shall be so posted at each polling place of such town meeting or village election.

Source.—
Former
election
law, § 120.

§ 84. Publication by board of elections of lists of nominations.

The board of elections, at least six days before an election, shall publish a list containing the name, residence and place of business, if any, of every candidate for public office, other than a town office, to be filled at such election, whose certificate or petition of nomination has been filed with it or whose nomination has been certified to it or who has been nominated at a primary election by returns canvassed by it, together with facsimiles of the various emblems. However, the list shall not include the names of candidates for the office of presidential electors, but instead thereof such candidates shall be described as a specified number of presidential electors, nominated to support the party candidates, naming them, for the office of president and vice-president. In a county outside the city of New York such publication shall be made once in not less than two nor more than four newspapers published in the county. In the county of New York such publication shall be made twice in ten newspapers published in the county; in the counties of Bronx and Queens such publication shall be made twice in four newspapers published in each county respectively; in the county of Kings such publication shall be made twice in the newspapers designated to publish corporation notices in the borough of Brooklyn; and in the county of Richmond such publication shall be made twice in two newspapers published in the county. In a county containing a city, at least one such publication shall be in a daily newspaper published in a city therein, if there be such a newspaper. So far as consistent with this section, one of such newspapers shall be one representing the party polling at the last preceding gubernatorial election the highest number of votes for governor and another of such newspapers shall be one representing the party polling at such election the next highest number of votes for governor. Should the board of elections find it impossible to make such publication six days before election it shall make it at the earliest possible day thereafter, and before the election. The list to be published in any county shall be a list only of the candidates to be voted for within the county. The city clerk of each city except New York and the board of elections of the city of New York shall at least six days before an election of city officers held at a different time from a general election make a like publication as to candidates for offices to be filled at such city election in a like number of newspapers published in such city.

§ 85. **Equipment of registration and polling places by board or body designating such places.** The board or body authorized to designate registration and polling places shall provide for use upon a day of registration or election, or on a primary day, in each such place, as may be required, the following articles:

Source.—
Former
election
law, §§ 300,
316, 317.

1. For election day, a guard rail with a place for entrance and exit.

2. For election day, separate ballot boxes as occasion shall require, for ballots for presidential electors, for ballots for general officers, for ballots upon constitutional amendments and questions submitted, for ballots upon town questions, for ballots of each party at a primary election, for ballots defective in printing or spoiled and mutilated, and for stubs detached from ballots, each of sufficient capacity to hold the ballots to be deposited therein, having an opening in the top large enough to allow a single folded ballot to be passed easily through the opening, but no larger, and supplied with a sufficient lock and key.

3. For election day, a sufficient number of voting booths, and supplies therein, not less than one such booth for each seventy-five voters of the district, each booth to be at least three feet square, with four sides enclosed, each side at least six feet high and extending within two feet of the floor, the side in front opening and shutting as a door swinging outward, and to contain a shelf having a smooth surface and at least one foot wide extending across one side at a convenient height for writing and to be furnished with a pencil having black lead only.

4. For each day of registration two such booths for the use of voters marking enrollment blanks.

5. Necessary furniture.

The boxes for each polling place, with the keys thereof, shall be delivered to the inspectors of each election district at least one half hour before the opening of the polls at the election or primary.

§ 86. **Publication of registry lists; distribution thereof.** The board of elections of each county containing a city of the first or second class and the board of elections of the city of New York, as soon as possible after the receipt of the registry lists from boards of inspectors as provided in section one hundred and eighty and, in the city of New York, within one hundred and eight hours after the close of each annual registration, and elsewhere not less than six days prior to the day of election, shall print in pamphlet form for each ward of any such city within their respective counties, or for each assembly district in the city of New York, not less than fifteen times as many copies of said registration lists as there are election districts in such ward or assembly district, so that each ward or assembly district pamphlet shall contain the lists of the several election districts in such ward or assembly district. The board of elections shall contract for the printing of such lists with whomsoever it may seem to such board to be most advantageous so to contract, but such contract shall be awarded only after proper public notice and to the lowest bidder. Upon the written application of the chairman of the

Source.—
Former
election
law, § 157.

executive committee of the county committee of any political party whose candidates are entitled to a place upon the official ballot to be voted at the election for which the registration is made, the board of elections shall deliver to such chairman three copies of each ward or assembly district pamphlet for each election district within such city, or, in the city of New York, within each assembly district of the county which such county committee represents. Two pamphlets containing the lists of the registered persons in the election districts within his precinct shall be furnished to each police captain in all such cities; and one copy of the pamphlet for each ward or assembly district shall be mailed by the board of elections to the attorney-general, as soon as it is printed. The pamphlets so printed shall be distributed in the discretion of such boards, which may charge for each pamphlet a sum not exceeding ten cents a copy for a ward pamphlet or twenty-five cents a copy for an assembly district pamphlet, and any moneys resulting from the sale thereof shall be paid to the county treasurer of the county, or comptroller of the city of New York, as the case may be, for the benefit of the treasury of such county or city.

Source.—
Former
election
law,
§§ 323, 341.

§ 87. **Furnishing board of elections of city, town or village clerk of supplies for election.** The board of elections of each county and of the city of New York shall provide the requisite number of official and sample ballots, two cards of instruction, two sets of sample ballots mounted on cards, two poll books where necessary, necessary distance markers, necessary tally sheets and return blanks, pens, penholders, red and black ink, pencils having black lead, heavy manila envelopes for returns, labels, sealing wax, and such other articles of stationery as may be necessary for the proper conduct of the election and the canvass of the votes, for each election district in the county or city, for each election to be held thereat, including a primary election, except that when a town meeting, city or village election is not held at the same time as a general election, the clerk of such town, city or village, respectively, shall provide such official and sample ballots and the necessary blanks, supplies and stationery for such election and town meeting. However, the town clerk shall provide the ballots and sample ballots for a town question and blanks for the returns of the votes thereon, though the town meeting be held at the time of general election. Such instruction cards shall contain in clear, large type in red ink brief but clear instructions to voters as to the manner of voting and in smaller type a copy of such sections of the penal law relating to crimes against the elective franchise as the board of elections shall select. Such distance markers shall be conspicuously printed to indicate the distance of one hundred feet from the polling place.

Source.—
New.

§ 88. **Number of registers to be provided for an election other than a general election, and for a primary election.** For an election where voters are required to be registered, other than a general election, and for a primary election one of the two copies of the register to be delivered to the inspectors shall be a copy containing ballot numbers and other entries for the previous election,

at which registers were used for such purposes, held since the preceding days of registration. In a city of over fifteen thousand inhabitants, one of such copies shall be the one used for taking signatures during registration and the other shall be one having an unused column, if any, to be available for signatures and statement numbers of voters at the election, except a primary election outside of the city of New York.

§ 89. **Poll-books to be furnished when necessary.** If, at any election, the registers provided therefor do not contain suitable columns for recording the numbers on ballots delivered to voters and ballots voted, or if, at the time of any election, the columns for such purpose shall all have been used at former elections, two poll-books shall be provided at each polling place, containing columns, suitably entitled, for entering in the following order the name of the voter, residence, number on ballot delivered to voter, number on ballot voted and "remarks." In a city of over fifteen thousand inhabitants, if such books be necessary as above provided, there shall be an additional column, between the column for residence and the column for number on ballot delivered to voter, to be entitled, "signature or statement number of voter." If the holding of an additional primary election to supersede a spring or fall primary, in any election district, be ordered by the court or a justice, poll-books for each party affected by the order shall be provided, and the name of the proper party shall be written, stamped or printed on the covers. In a city of over fifteen thousand inhabitants outside of the city of New York, if such an additional primary be ordered, the poll-book column for signature shall be omitted, or, if included in the blank poll-books on hand, shall be crossed out by the board of elections.

Source.—
Former
election
law, §§ 77a,
78, 78a.

§ 90. **Distribution of ballots and supplies.** The board of elections of each county, except those counties which are wholly within the city of New York, shall deliver at its office to each town or city clerk in such county, except in the cities of New York and Buffalo, on the Saturday before the election or primary for which they are required, the official and sample ballots, and other supplies required to be provided by the board of elections, envelopes containing absentee voters' ballots received for a general election received not later than noon of the Friday before election day, and, for a primary election, two registers containing party enrollments, for each polling place in such town or city. The town or city clerk shall call at the office of such board of elections at such time and receive such ballots, supplies and articles. In the cities of New York and Buffalo the board of elections shall cause such ballots, supplies and articles to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election or primary. For a district where registration is not required to be personal, card slips for literacy tests shall be delivered with the other supplies for a general election.

Source.—
Former
election
law, § 342.

Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots for each election district shall be in separate sealed packages, clearly marked on the outside thereof with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The other supplies provided for each election district also shall be inclosed in a sealed package or packages, with a label on the outside thereof showing the contents of each package. Each town and city clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district one-half hour before the opening of the polls of such election therein, and shall take a receipt therefor specifying the number and kind of packages delivered.

Town, city and village clerks required to provide official and sample ballots and supplies for town meetings, city and village elections held at different times from a general election, shall in like manner, deliver them to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, in like sealed packages marked on the outside in like manner, and shall take receipts therefor in like manner.

Source.—
Former
election
law,
§§ 16, 21.

§ 91. **Transcripts of enrollment.** The board of elections shall certify to the correctness of any transcript of original enrollment entries, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript. The fees received for certifying such transcripts shall be paid into the public treasury. The board of elections shall give to any voter enrolled as in this article provided, a certificate of enrollment, which shall specify the name of the party with which he is enrolled, the date of enrollment and the election district in which such voter is enrolled.

The board of elections shall annually provide true copies, duly certified, of so much of the registers as will give the names, addresses and political affiliation of each voter, and shall, in the month of February in each year, transmit one such certified copy to the secretary of state and deliver one such certified copy to the chairman of the proper county committee of each party.

Source.—
Former
election
law, § 23.

§ 92. **Publication of enrollment lists.** The board of elections of the city of New York shall and the board of elections of any county containing a city of the first or second class and when authorized by the board of supervisors the board of elections in any other county may, in its discretion, cause to be published for each assembly district, within a county over which such board has jurisdiction, in pamphlet form, and at public expense a transcript of the registers of each election district in the assembly district, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The board may sell surplus copies of the pamphlets at

not exceeding the cost of publication, and the fees received shall be paid into the public treasury.

§ 93. **Payment of election expenses.** 1. The expenses of providing polling places, guard rails, voting booths, supplies therefor, ballot boxes and other furniture of the polling place, for a primary or other election, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated, except that such expenses incurred for the purpose of conducting a village election not held at the same time as a general election shall be a charge upon the village.

Source.—
Former
election
law, § 212.

2. All expenses relating to a town meeting or city or village election held at a different time from a general election shall be a charge upon the town, city or village.

3. All expenses incurred under this chapter by the board of elections of a county outside of the city of New York shall be a charge against the county, except that if a town meeting, city or village election be held at the same time as a general election, the expense of printing and delivering the official ballots, sample ballots and tally sheet and return blanks shall be apportioned by the board of elections between such town, city or village and the county, in the proportion of the number of candidates for town, city or village offices on such ballots, respectively, to the whole number of candidates thereon, and the amount of such expenses so apportioned to each such municipality shall be a charge thereon. Whenever voting machines are used in any election by any town, city or village, only such expenses as are caused by the use of such machines and such as are necessary for the proper conduct of the election shall be charged to such town, city or village.

4. All expenses of the board of elections of the city of New York shall be a charge on such city.

§ 94. **Apportionment of expenses of board of elections outside of New York city.** The board of elections in each county, outside of the city of New York, on or before the fifteenth day of December, and not earlier than the first day of October, in each year, shall certify to the clerk of the board of supervisors the total amount of the expenses of such board of elections, including salaries, for the preceding year, and, if the board of supervisors of any county shall so direct, shall certify to such clerk the portions of such expenses which under provisions of law are to be borne by any city or cities in said county and the portion thereof which is to be borne by the rest of such county, and such clerk shall thereupon notify the proper local official or officials, who, in spreading upon the assessment-rolls the taxes to be levied upon the taxable property in the city, or any such cities, and in the rest of the county, shall include in the amount so spread the amounts certified by the board of elections to be borne by such city or cities, respectively, and in the amount spread upon the assessment-rolls of the taxable property in the several towns or other political subdivisions of the rest of the county the amount so certified by said board of elections to be borne by such towns or political subdivisions respectively.

Source.—
Former
election
law, § 200.

ARTICLE 5.

FORMS OF BALLOTS AND RETURNS; ABSENTEE VOTING; PRESERVATION OF BOOKS AND PAPERS.

Section 100. Official ballots for elections.

101. Number of official and sample ballots.
102. Placing names upon ballot.
103. Order of names upon ballot.
104. Classification and form of official ballots other than primary ballots.
105. Ballots for general officers.
106. Ballots for questions submitted.
107. Ballots for presidential electors.
108. Ballots for primary election.
109. Public inspection of ballots.
110. Preparation and furnishing of adhesive pasters.
111. General provisions as to form and number of return blanks.
112. Form of ballot return.
113. Form of return of votes for offices or positions, other than presidential electors.
114. Description of tally sheets except for the office of presidential elector.
115. Form of return of votes upon questions submitted.*
116. Forms of return and tally of votes cast for presidential electors.
117. Application for ballots by absentee voters.
118. Determination upon absentee voters' application for ballots; delivery of ballots.
119. Ballots for absentee voters; lists of candidates.
120. Envelopes for absentee voters' ballots.
121. Enrollment blanks for absentee voters whose registration is not personal.
122. Method of voting by absentee voter.
123. Preservation of ballots; judicial or legislative examination.
124. Preservation and disposal of books, records and papers.

Source.—
Former
election
law, § 330.

§ 100. **Official ballots for elections.** Official ballots shall be provided at public expense at each polling place for every primary election and for every election at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected, and except an election of officers of a fire district outside of cities and incorporated villages, at which excepted elections any form of ballot which may be adopted and used by the meeting at which such election shall be had shall be legal.

Source.—
Former
election
law, §§ 79,
333, 340,
346.

§ 101. **Number of official and sample ballots.** The number of official ballots of each kind to be provided for each polling place,

* So in original. [Does not conform to section heading.]

except for a primary election, shall be one and one-tenth times the number of voters entitled to vote at the polling place, as nearly as can be estimated by the board or officer providing such ballots. The number of official ballots for each party to be provided for each polling place at a primary election shall be not less than sixty nor more than one hundred and five per centum of the total number of enrolled voters of the party in the election district of such polling place. If the official ballots required to be furnished by any board or officer shall not be delivered to such board or officer at the time required, or if after delivery shall be lost, destroyed or stolen, such board or officer shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, but without the indorsement, and to be delivered to the inspectors of election. Such ballots shall be known as unofficial ballots. Sample ballots of each kind equal in number to ten per centum of the number of official ballots, printed on paper of a different color from any of the official ballots and without numbers on the stubs, but in all other respects precisely similar to the official ballots, shall be provided for each polling place. Upon printing the sample ballots for a primary election, the board of elections shall send to the secretary of state one such ballot for one of the election districts in each assembly district.

§ 102. **Placing names upon ballot.** If the officer or board with whom or which are filed petitions or certificates of designation or nomination shall find that such petitions or certificates are in compliance with this chapter, the names of the candidates thereby designated or nominated shall, unless otherwise ordered by a court or judge of competent jurisdiction, be printed upon the appropriate official ballot; but any petition filed with the secretary of state, or any city, town or village clerk or any independent nominating petition filed with any board of elections outside of the city of New York shall be presumptively valid if it is in proper form and appears to bear the requisite number of signatures, authenticated as prescribed in this chapter.

Source.—
New.

§ 103. **Order of names upon ballot.** 1. The officer or board who or which prepares the general officers' ballot shall determine the order in which shall appear, below the names of party candidates, the nominations made only by independent bodies. Such officer or board also shall determine the order in which shall be printed, in a section of such ballot the names of two or more candidates nominated by one party or independent body, for an office to which two or more persons are to be elected; provided, however, that any such candidate may, by a writing filed with such board or officer not later than one week after the adjournment of the convention or the primary election nominating him, or otherwise not later than two days after the filing of the petition or certificate nominating him, demand that such order be determined by lot, and in that case such order shall be so determined, upon two days' notice by mail given by such board or officer to each candidate for such office.

Source.—
Former
election
law.
§§ 58, 231.

2. The officer or board with whom or which is filed the designations for a public office or party position shall determine by lot, upon two days' notice by mail given by such board or officer to each candidate for such office or position and to the committee, if any, named in the designating petition, the order in which shall be printed on the official primary ballot, under the title of the office or position, the names of candidates for public office, the names of candidates for a party position to which not more than one person is to be elected, and the groups of names of candidates for party position where two or more persons are to be elected thereto and any petition designates two or more persons therefor. The names of candidates, if any, for a party position to which two or more persons are to be elected, who are designated by individual petitions and not in a group shall be printed below such group or groups, in such order as between themselves, as such officer or board shall determine by lot upon the notice specified in this subdivision. The names within a group of candidates designated for party position by one petition shall be printed in the same order in which they shall appear in the petition, unless they appear in a different order on different papers of the petition, in which case their order within the group shall be determined by such officer or board by lot upon the notice specified in this subdivision. However, the notice to a committee, of the drawing, need not be mailed to more than five members, if there be that many, and as to offices or party positions for which designating petitions are filed with the board of elections of the city of New York the notice lot shall be given to the committees only.

3. If a vacancy in a designation or nomination be filled after the making, in the manner provided in this section, of a determination of the order in which the names of candidates for the office or position are to be printed, the name of the candidate designated or nominated to fill such vacancy shall be printed in the place so determined for the original candidate.

§ 104. **Classification and form of official ballots other than primary ballots.** For elections other than primary elections, there shall be five kinds of ballots to be used by the voters who appear personally to vote, called respectively ballots for presidential electors, ballots for general officers, ballots upon constitutional amendments and questions submitted, ballots upon town propositions, and ballots upon town appropriations, which shall be used for the purposes which their names severally indicate. Ballots for general officers shall contain the names of all candidates except presidential electors. Official ballots shall be printed in black ink, on book paper of good quality free from ground wood, five hundred sheets of which twenty-five by thirty-eight inches in size shall weigh sixty pounds and shall test for that size and weight at least twenty points on a Morrison tester. They shall be rectangular in shape, not less than eight inches in width and twelve inches in length, and shall have a margin extending beyond any printing thereon.

All ballots of the same kind for the same polling place shall be

Source.—
Former
election
law, § 381,
subd. 1.

of precisely the same size, quality and shade of paper, and of precisely the same kind and arrangement of type and tint of ink. A different, but in each case uniform, kind of type shall be used for printing the names of candidates, the titles of offices, political designations, and the reading form of constitutional amendments and other questions and propositions submitted. The names of candidates shall be printed in capital letters in black-faced type not less than one-eighth nor more than three-sixteenths of an inch in height.

Each ballot shall be printed on the same sheet with a stub and shall be separated therefrom by a horizontal line of perforations extending across the entire width of the ballot. On the face of the stub shall be printed the instructions to voters. On the back of the stub immediately above the center of the indorsement on the back of the ballot, shall be printed "No." the blank to be filled with the consecutive number of ballots, beginning with "No. 1," and increasing in regular numerical order.

On the back of the ballot, below the line of perforations, just to the right of the center, and outside when the ballot is folded, shall be printed the following indorsement, the blanks properly filled:

Official Ballot for General Officers (or as the case may be)

County of

..... Assembly District (or ward or town)

..... Election District.

(Date of Election.)

(Facsimile of the signature of officer or officers providing the ballot).

Each such ballot shall be printed in sections, on which the candidates' names, emblems and political designations, or the constitutional amendment, or other questions submitted, with the voting squares, and other requisite matter shall be boxed in by heavy black lines. The voting squares and the spaces occupied by emblem shall have a depth and width of five-sixteenths of an inch.

In case the sections shall be so numerous as to make the ballot unwieldy if they are printed in one column, they may be printed in as many columns as shall be necessary, and in that case, in order to produce a rectangular ballot, blank sections may be used.

On the ballot shall be voting squares in which voters may make their voting marks. All voting squares shall be bounded by heavy black lines, the perpendicular lines to be not less than one-sixteenth of an inch wide. On all ballots there shall be a perpendicular column of these squares. No voting squares shall be provided in the blank spaces for written names.

The ballots bearing the same number at the same election shall constitute a set of ballots.

The name of each political organization whose party name contains more than eleven letters shall be printed on the ballot, whenever the necessities of space shall so require, in an abbreviated form containing not more than fifteen letters. In printing the names of candidates whose full names contain sixteen letters or

more not more than one name other than the surname shall be printed in full, and each candidate may indicate in writing to the officer or officers charged with the duty of preparing the ballots the form in which, subject to this restriction, his name shall be printed. No emblem shall occupy a space longer in any direction than the voting square to which it relates.

Source.—
Former
election
law, § 331,
subd. 2.

§ 105. **Ballots for general officers.** Upon ballots for general officers the names of all candidates for any one office shall be printed in a separate section. The sections shall be in the customary order of the offices and shall be numbered from one upward by a numeral printed in the upper right hand corner of the section. In printing the names of candidates precedence shall be given to the candidate or candidates of the party which polled the highest number of votes for governor at the last preceding election for such officer, and so on. At the top of each section in the center shall be printed on one line the title of the office. On the same line, to the left of such title and immediately above the emblems and voting squares, there shall be printed a direction as to the number of candidates for whom a vote may be cast, which direction shall be punctuated by an exclamation point. If two or more candidates are nominated for the same office for different terms, the term for which each is nominated shall be printed as a part of the title of the office. At the bottom of each section as many separate spaces as there are candidates to be elected shall be left blank in which the voter may write the names of any candidates not on the ballot. Except as herein otherwise provided, with respect to a candidate for the office of governor or of member of assembly who is nominated by more than one political organization, there shall be printed on each line below the top, in the following order, from left to right, the party emblem, the voting square, the candidate's name and the name of the party by which he is nominated. The width of the enclosure containing the name of the candidate and of such party shall not exceed three and one-half inches. In any case where a candidate for public office is nominated by more than one political organization, the party names and emblems shall appear in the order of priority based on the relative number of votes cast for governor by each organization at the preceding election of a governor. In any such case, the emblems shall be arranged horizontally before the voting square, beginning next to the square immediately preceding the name of the candidate with the emblem of the party casting the highest number of such votes. When any candidate for the office of governor or member of assembly is nominated by more than one political organization, there shall be one voting square, in the same horizontal row as the emblems, to the right of each emblem before the name of a candidate so nominated for such office. The final letter of the party name or names shall be close to the right hand perpendicular line of the box, and any space between the candidate's name and his party name or names shall be filled with dotted or waved lines.

On the stub at the top of the ballot shall be printed in heavy black type the following instructions:

INSTRUCTIONS.

1. Mark only with a pencil having black lead.
2. To vote for a candidate whose name is printed on this ballot made a single cross X mark in one of the squares to the right of an emblem opposite his name.
3. To vote for a person whose name is not printed on this ballot write his name on a blank line under the names of the candidates for that office.
4. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot is unlawful.
5. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

The following illustrations are here given as a guide in printing the sections:

Vote for one!					GOVERNOR	1
					JERRY COLLINS	Republican Prohibition Social Labor
					HOSEA CLARK	Democratic
					WILLIAM HIGGS ..	Progressive Ind. League
					PAUL PRY	Liberal

Vote for one!					LIEUTENANT GOVERNOR	2
					PERRY PRINDLE ..	Republican Prohibition Social Labor
					RALPH HUNTER ...	Democratic
					JOHN SMITH	Progressive
					PATRICK DOYLE ..	Ind. League
					HENRY SPENCER	Liberal

§ 106. Ballots for questions submitted. The reading form of each proposed constitutional amendment or other question submitted shall be printed in a separate section. At the left of each

Source.—
Former
election
law, § 322.

question shall appear two voting squares, one above the other, each at least one-half inch square. At the left of the upper square shall be printed the word "Yes," and at the left of the lower square shall be printed the word "No." On the stub at the top of the ballot shall be printed in heavy black type the following instructions:

INSTRUCTIONS.

1. Mark only with a pencil having black lead.
2. To vote "Yes" made a cross X mark in the square opposite the word "Yes."
3. To vote "No," make a cross X mark in the square opposite the word "No."
4. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot is unlawful.
5. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

The questions shall be numbered consecutively on the face of the ballot.

So far as possible the ballots upon town propositions shall conform to the directions herein contained respecting ballots on constitutional amendments and questions submitted.

All ballots for the submission of town propositions for raising or appropriating money for town purposes, or for incurring a town liability, to be voted at any town meeting in any town, shall be separate from all other ballots for the submission of other propositions or questions to the voters of such town to be voted at the same town meeting or election. Such ballots shall be indorsed "ballot upon town appropriations."

Source.—
Former
election
law, § 331,
subd. 2.

§ 107. **Ballots for presidential electors.** Upon ballots for presidential electors the names of the presidential electors of each party shall be printed in one column indicating:

First. The electors at large, whose names shall be arranged in the alphabetical order of the surnames; and

Second. The electors of each district, whose names shall be arranged in the numerical order of their district.

The columns shall be parallel to each other and shall be separated by heavy black lines. In addition to the party columns a blank column with lines for writing also shall be provided in which voters may write the names of candidates for presidential electors not on the ballot and which shall be sufficient to contain as many names as there are electors to be chosen. It shall be designated as the blank column and shall contain no voting spaces. At the head of each party column shall be printed the party emblem; below this a blank circle three-quarters of an inch in diameter; below this the party name in large type; below this the names of the candidates for president and vice-president; and below this a heavy line dividing the heading from the names of the presidential electors. Above the name of the first elector shall be printed the words "presidential electors." The names of the presidential electors shall be printed in spaces one-quarter of an inch in depth, except that the first spaces containing also the words "presidential electors" shall be half an inch in depth. The spaces

shall be divided from each other by light horizontal lines. At the left of the name of each elector shall be printed a voting space one-quarter of an inch square, except the space opposite the first name, which shall be half an inch in depth.

Each party circle shall be surrounded by the following instructions, plainly printed "For a straight ticket, mark within this circle."

The columns for the presidential electors of independent bodies shall be similar to the party columns except that above the emblem in each column shall be printed the words "independent nominations" in large type like that used for the party names.

In the blank column the space occupied by the emblem and voting circle in the party column shall be occupied by the following instructions, plainly printed: "In the column below, the voter may write the name of any person for whom he desires to vote whose name is not printed on the ballot." Below the line dividing the heading from the blank spaces shall be printed, as in the other column, the words "presidential electors."

The columns shall be arranged upon the ballot as directed by the secretary of state, precedence, however, being given to the several parties according to the number of votes for governor polled at the last preceding gubernatorial election.

On the stub at the top of the ballot shall be printed in heavy black type the following instructions:

INSTRUCTIONS.

1. Mark only with a pencil having black lead.
2. To vote for all the electors of one party made a cross X mark within the circle above the party column.
3. To vote for some but not for all, of the electors of one party make a cross X mark in the square at the left of the name of every candidate printed on the ballot for whom you desire to vote.
4. To vote for any person whose name is not printed on this ballot write his name in the blank space provided therefor.
5. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot is unlawful.
6. If you tear, or deface, or wrongly mark this ballot, return it and obtain another.

§ 108. **Ballots for primary election.** The official ballot for a primary election shall conform to the general officers' ballot in respect of quality and weight of paper, perforated line, and number on the stub on the back of the ballot. The ballots of no two parties shall be of the same color, and the secretary of state shall select the color for each party. On the back of the ballot, on the stub, immediately below the number, shall be the name of the party. On the back of the ballot and below the stub, and immediately to the left of the center of the ballot, shall be printed the name and emblem of the party and the words "Official primary ballot for," followed by the number of the election district, name of the city or town, number of the assembly district or ward when necessary to identify the election district, date of the primary election and fac-simile of the signatures of the officer or

Source.—
Former
election
law, § 58.

officers providing the ballot. The face of the ballot shall conform substantially to the following provisions:

1. Above the perforated line shall be printed the following instructions, with the word "Instructions" above: "Mark only with a pencil having black lead. To vote for any candidate whose name is printed on this ballot make a cross X mark in the voting space at the left of the name. To vote for any person whose name is not printed on this ballot write the name of such person in the blank space provided for that purpose under the title of the public office or party position to which you wish him nominated or elected. Any other mark than the cross X mark used for the purpose of voting, or any erasure, made on this ballot is unlawful. If you tear or deface or wrongly mark this ballot, return it and obtain another." Each instruction shall begin on a new line and be numbered, beginning with "1," for the first instruction.

2. Directly below the perforated line shall be printed the following: "Official ballot for the primary election of the (name of the party) party," the name of the county, the date of such election and the party emblem. The name of the city or town and the number of the election district and of the ward or assembly district also may be added, in the discretion of the board of elections. Below such matter, and extending across the ballot, shall be printed a heavy black horizontal line.

3. The face of the ballot below such heavy black horizontal line shall be divided into parts, separated by a heavy black vertical line or lines, one-fourth of an inch in width. Descriptive words to indicate the purpose of each part shall be printed at its head, below the heavy black horizontal line. Beginning at the left, the first part, except at a spring primary, shall be for, and shall be entitled "Candidates for nomination for public office." The second part at a fall primary at which delegates to a convention are to be elected, or the first part at a spring primary, shall be for and shall be entitled, "Candidates for the party position of delegate or alternate." The last part at either primary shall be for, and shall be entitled "Candidates for the party position of committeeman." Immediately below such captions shall be printed two light parallel horizontal lines approximately one-sixteenth of an inch apart, extending across each part. When necessary, a part may be divided into two or more columns, but the names of all persons designated for the same office or party position shall be in the same column.

4. In each part shall be printed the titles of the offices or party positions, as the case may be, for which the part is to be used, and under each such title shall be printed the names of the designated candidates for the office or position, followed by as many blank spaces, for writing in names of persons for whom the voter desires to vote, as there are persons to be nominated for the office or elected to the party position. Immediately below the title of the office or position, shall be printed, in brier lower case type, "Vote for " (the blank space to be filled with the number of persons to be nominated for the office or elected to the position). The space for the title of an office, and such direction, shall be three-eighths of an inch, and for the name of a candidate

or for writing in a name, one-fourth of an inch, in depth. At the left of the name of each designated candidate shall be an inclosed voting space, three-eighths of an inch in width and approximately one-fourth of an inch in depth, bounded above, below and to the right by black lines, heavier than those which separate the spaces containing the names of candidates. To the left of voting spaces which do not adjoin a vertical line dividing two parts, there shall be a heavy black vertical line approximately one-eighth of an inch in width. No voting space shall be provided in the space for writing in names. In such case, the space corresponding to a voting space shall be all black.

5. The titles of public offices shall appear in the same consecutive order that they will appear on the general officers' ballot. The titles of the party positions of delegate or alternate shall appear in the following order: delegate, or delegates, to state convention; alternate delegate, or delegates, to state convention; delegate, or delegates, to judicial district convention; alternate delegate, or delegates, to judicial district convention; except that at a spring primary the titles of the following positions shall appear, in the following order, after alternate delegates to a state convention: district delegate, or delegates, to national convention; district alternate delegate, or delegates, to national convention. The party positions of committeemen shall appear in the following order: member of state committee; members of county committee.

6. The names of candidates shall be numbered with arabic numerals printed in heavy faced type between the voting space and the name of the candidate, beginning with "1" for the first candidate named in the first part and continuing in numerical order to and including the last candidate named in the last part, except that where two or more candidates are to be elected to a party position, the names of candidates designated by each petition shall be grouped, with a blank space five-sixteenths of an inch in depth between each group, and each group shall have but one number, which shall be printed opposite the approximate center of the group, followed by a bracket embracing the names in the group. Where a candidate for nomination for the same public office or for election to the same party position is designated by two or more petitions, his name shall be placed upon the ballot but once as such candidate. If a candidate for a party position to be filled by two or more persons be designated in more than one petition his name shall be printed in the group of candidates designated by the petition first filed, unless, before the third Tuesday preceding the primary election, he shall, by writing signed and duly acknowledged by him and filed with the board of elections, specify another group in which his name shall be printed.

7. Spaces for containing names of candidates and for writing in names, and intervening spaces, shall be separated by light horizontal lines. Names of candidates shall be printed in capital letters not less than one-eighth nor more than three-sixteenths of an inch in height.

8. The following illustrations are here given as a guide in printing titles, names, numbers and voting spaces:

MEMBER OF ASSEMBLY

(vote for one)

9 RALPH HUNTER

10 JOHN SMITH

11 PATRICK DOYLE

DELEGATES TO STATE CONVENTION

(vote for three)

30

PAUL JONES

RAY PRATT

HESTER SMITH

31

CALEB HALL

JOHN PARKER

SARAH HAKES

MEMBERS OF COUNTY COMMITTEE

(vote for two)

38

WILLIAM HIGGS

MARY SMITH

39

JERRY COLLINS

HOSEA CLARK

§ 109. **Public inspection of ballots.** Each officer or board charged with the duty of providing official ballots for an election or primary election shall have sample ballots open to public inspection five days before the election for which they were prepared and the official ballots open to such inspection four days before such election, except that the sample ballots for a village election or town meeting held at a different time from a general election shall be so open to public inspection at least two days before such election or meeting and the official ballots at least one day before such election or meeting. During the times within which the ballots are open for inspection such officer or board shall deliver to each voter applying therefor a sample of the ballot which he is entitled to vote.

Source.—
Former
election
law, § 342.

§ 110. **Preparation and furnishing of adhesive pasters.** If a certificate of designation or nomination to fill a vacancy shall lawfully be filed with the board or officer required to furnish official ballots, or the board of elections shall receive from the secretary of state a notification of a new designation or nomination to fill a vacancy, after the official ballots have been printed, and before primary day or election day, the board or officer providing the official ballots shall prepare and furnish to the inspectors of election in each election district affected adhesive pasters containing the name of the candidate designated or nominated to fill the vacancy, with directions for the proper use thereof. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the names of the candidates upon the official ballots, and shall be of a size as large as and no longer than the space occupied upon the official ballot by the name of the candidate in whose place the candidate named upon the paster has been designated or nominated. Whenever such pasters are provided, the board or officer furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy the name of the person originally designated or nominated, the name of the person designated in the new certificate, the title of the office or party position for which the designation or nomination is made, the name of the political party to which the committee making the designation or nomination belongs, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for each such district.

Source.—
Former
election
law,
§§ 52, 127.

§ 111. **General provisions as to form and number of return blanks.** A set of returns of the canvass by inspectors shall consist of the statements, bound or fastened together, of the vote on all offices or questions named on one kind of ballot and shall have at the end one certificate to be signed by the inspectors, and clerks if any, except that which a city or town election is held with the general election and the canvass of all the returns is not made by the county board of canvassers, the board of elections, other than in the city of New York, shall prepare the blanks for returns in two sets, one of statements as to the votes on city or town offices and one of statements as to the votes on the remaining offices on

Source.—
Former
election
law, § 234.

Source.—
Former
election
law, § 335.

BALLOT RETURN.

.....Election District

[Repeat the foregoing form for a return of each additional kind of ballot.]

[Add lines for signatures, followed by official titles of two election officers, being two inspectors or two clerks, as the case may be, required by law to make ballot returns in the district for which the blanks are provided.]

§ 113. **Form of return of votes for offices or positions, other than presidential electors.** The official return of votes for offices other than presidential electors, and for party positions, shall be substantially in the following form with appropriate changes to indicate, at a general election, the vote for governor or member of assembly of each separate party or independent body by whom a candidate therefor was nominated, if nominated by more than one party or body:

Source.—
Former
election
law. § 222.

OFFICIAL RETURN of Votes cast [for General officers].

General Election. County of.....
November.....19 Assembly District.
.....Election District.
(Name of party, if for primary election.)

Return of votes cast for office of [Governor].

Total Number of Ballots Voted:
Number to be elected to said office: _____

Total number of Votes to be canvassed: _____

For the office of.....the candidates named below received the number of votes set opposite their respective names.

[Print here the names of the candidates as they appear on the ballot, with six lines in addition for names to be written in and if a candidate for governor or member of assembly was nominated by more than one political organisation, repeat the candidate's name as many times as he was nominated, inserting the vote of each party or independent body separately.]

Blank Votes

Void Votes

Total

[Repeat the FOREGOING form of return for each office, and then print the following statements and certificates at the end of the set of returns, immediately after the return for the last office named on the ballot.]

The number of blank, void and protested ballots was:
The number of ballots which were taken from the ballot box by the chairman as excess ballots and placed with the spoiled and mutilated ballots, was: _____

STATE OF NEW YORK, }
COUNTY OF } ss.:

The undersigned hereby certify, each for himself, that the foregoing returns of the ballots cast for the above offices at the election held on the day of November, 19 , in the election district in the assembly district (or town, or ward of the city of , as the case may be) in the county of , are correct, and that the tally sheets for such offices, to which the clerks have affixed their initials, were correctly kept and filled out in accordance with the election law.

[Add lines for signature of inspectors, and also of clerks in districts having clerks, followed by their official titles.]

N. B. Annex tally sheets to two sets of these returns.

Source.—
Former
election
law, § 79;
§§ 2, 3;
subd. 2;
§ 2, subd. 2.

§ 114. Description of tally sheets except for the office of presidential elector. The tally sheets for any election to which article eight is applicable, except tally sheets for presidential electors, shall be prepared and printed substantially as follows:

1. The tally sheet for votes on the general officers' or primary ballots shall have thereon the printed names of the candidates and a place for writing in the names of persons voted for who do not appear on the official ballot; a place for entering tally marks opposite each name, which place, on the sheet for votes on the general officers' ballot, shall be subdivided, and on the sheet for votes on the primary ballot may be subdivided, into blocks of ten spaces each; a similar place for entering tally marks for blank votes; a similar place for entering tally marks for void votes; a place for entering, respectively, the total number of tallies for each candidate or person, the total number of tallies for blank votes and the total number of tallies for void votes; a place for entering the total number of tallies of all kinds, with respect to the office or position; a place at the top, for entering, respectively, the total number of ballots cast (including void and blank ballots) and the number of persons to be elected or nominated to the office or position, and a place for entering the total of such two numbers opposite the words "total number of votes to be canvassed"; an appropriate title showing the nature of the tally sheet; brief instructions as to filling out the sheet. For an election other than a primary election, there shall be a separate sheet for each office. For a primary election, the same sheet may provide for tallies with respect to all the offices and positions of one party, or for the tallies for all parties with respect to one office or position, as the board of elections may deem most convenient. In the case of the tally sheet for an election other than a primary, or a tally sheet for a primary election where the same sheet provides for the tallies of all parties with respect to one office or position, the form for the inspectors' returns of the canvass as to the office or position may be combined with the tally sheet, in the discretion of the board of elections or other officer or board which provides the official ballots; and in such a case, in the discretion of such board or officer, statements and figures which would be identical if the returns and tally sheets were separate, need not be duplicated, and such board or officer may require results to be written out.

2. The tally sheet for questions submitted shall be similar to the tally sheet for votes cast on the general officer's ballot, with suitable modifications. Provision for entering the "number of candidates to be elected" shall be omitted; also, in place of the names of candidates and persons shall be printed the words "For (or against, as the case may be) question No. (or other brief description)."

3. The secretary of state shall prepare and transmit to each board of elections specimen forms which may be used for the above described tally sheets. The secretary of state shall furnish sufficient copies of such specimen forms to each board of elections so

that such board may transmit, and it shall be the duty of such board to transmit, one of each kind to the board or officer required by law to provide official ballots for a local election within the county held at a time other than the general election. Any form, however, which complies substantially with this section, may be used.

§ 115. **Form of return of votes upon question submitted.** The return of votes upon constitutional amendments or other questions submitted, including town propositions and town appropriations, shall be in all respects like the form for the return of votes for officers except in the following particulars:

Source.—
Former
election
law, § 339.

(a) At the top of the sheet shall be printed the words "Official return of votes cast on (constitutional amendments, questions submitted, town propositions, or town appropriations, as the case may be)."

(b) Below the heading, in place of the words, "Return of votes cast for office of", shall be printed the words, "Return of votes cast on question number (one) relating to (here give brief description)."

(c) The words "Number to be elected to said office," and "Total number of votes to be canvassed," shall be omitted.

(d) In place of the words "For the office of —— the candidates named below received the number of votes set opposite their respective names," shall be printed the words, "Upon question number (one) relating to (here give same description as above directed) votes were cast as follows:

Votes in favor

Votes against

(e) The certificate at the end shall be changed to conform to the nature of the ballots, substituting amendments, propositions or questions, as the case may be, for offices.

§ 116. **Forms of return and tally of votes cast for presidential electors.**

Source.—
Former
election
law, § 337.

1. Return. The official return of votes cast for presidential electors shall be in the following form:

OFFICIAL RETURN of votes cast for PRESIDENTIAL ELECTORS

General Election.

County of.....

November.....19 .

.....Assembly District.

.....Election District.

Number of ballots voted was:

Straight Ballots:

For [Republican] candidates.....

For [Democratic] candidates.....

[Print the names of the parties in the order
in which they appear on the ballot.]

Split Ballots.....

Ballots wholly blank (no vote being cast thereon for any candidate).....

Void Ballots (no vote being counted thereon for any candidate).....

Total.....

N. B. This total must exactly equal the number of ballots voted.

The candidates named below received the number of votes set opposite their
respective names:

NAME	NUMBER OF VOTES	NAME	NUMBER OF VOTES	NAME	NUMBER OF VOTES
[Republican] Electors		[Democratic] Electors		Candidates not on the ballot (Write in Names)	

[Print the groups, and also the names in the groups, in the order in which
they appear on the Ballot.]

The number of void, protested and wholly blank ballots was:

The number of ballots taken from the ballot box by the chairman as excess ballots
and placed with the spoiled and mutilated ballots was:

STATE OF NEW YORK, }
COUNTY OF..... } ss.:

The undersigned hereby certify, each for himself, that the foregoing is a correct
return of the ballots cast for presidential electors at the election held on the
day of November, 19 , in the election district in the
assembly district (or town, or ward of the city of , as the case
may be) in the county of , and that the tally sheet for such
office, to which the clerks have affixed their initials, was correctly kept and filled
out in accordance with the election law.

[Add lines for signatures of inspectors, and also of clerks in districts having clerks,
followed by their official titles.]

N. B. The tally sheets must be attached to two of these returns.

522.
5.

525.

2. Tally. The official tally of votes cast for presidential electors shall be in the following form:

§ 117. **Application for ballots by absentee voters.** A qualified voter who, on the occurrence of any general election, may be unavoidable absent from the county of his residence because his duties, occupation or business require him to be elsewhere within the United States, may vote as an absentee voter under this chapter. A qualified voter desiring to vote at such election as an absentee voter may mail or deliver to the board of elections, so that it shall be received by the board not earlier than the thirtieth and not later than the seventeenth day before the general election, his affidavit subscribed by him, stating his name and residence address, including the street number, if any, or otherwise a brief description thereof; that he is a qualified voter of the election district in which he resides; that he expects in good faith to be unavoidably absent from the state or county of his residence on the day of the next general election because his duties, occupation or business require him to be elsewhere within the United States on such day, giving a brief description of the duties, occupation or business which requires such absence; the special circumstances by which such absence is required, unless such duties, occupation or business are of a nature to require ordinarily absence from the state or county or require ordinarily traveling beyond the boundaries of the state or county, which shall include among others employee in the operation of railroad trains when the run of such employee crosses the boundary of the county, commercial traveler, actor, and federal employee having an office or position outside of the county, and that the affiant applies in good faith for an absentee voter's ballot or set of ballots, as the case may be. If the affiant is not required to register personally, the affidavit also may state that fact, that he has not and does not expect to register personally and that he requests an enrollment blank. Authentication of the signature, authority and official character of the officer before whom the affidavit purports to have been taken shall not be necessary when the affidavit is taken within the state; nor when it is taken without the state before a notary public, with seal, if his seal be affixed.

Source.—
Former
election
law, §§ 522,
524, 525.

§ 118. **Determination upon absentee voters' application for ballots; delivery of ballots.** 1. Upon receipt of such affidavit the board of elections shall determine upon such inquiry as it deems proper whether the applicant is a voter legally qualified to vote at such election, and if it finds he is not so qualified shall reject the application. An affidavit by any officer or employee of the board of elections or any police officer, sheriff or deputy sheriff, or a special deputy attorney-general appointed pursuant to the executive law, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days

Source.—
Former
election
law, § 525.

2. Tally. The official tally of votes cast for presidential electors shall be in the following form:

§ 117. **Application for ballots by absentee voters.** A qualified voter who, on the occurrence of any general election, may be unavoidable absent from the county of his residence because his duties, occupation or business require him to be elsewhere within the United States, may vote as an absentee voter under this chapter. A qualified voter desiring to vote at such election as an absentee voter may mail or deliver to the board of elections, so that it shall be received by the board not earlier than the thirtieth and not later than the seventeenth day before the general election, his affidavit subscribed by him, stating his name and residence address, including the street number, if any, or otherwise a brief description thereof; that he is a qualified voter of the election district in which he resides; that he expects in good faith to be unavoidably absent from the state or county of his residence on the day of the next general election because his duties, occupation or business require him to be elsewhere within the United States on such day, giving a brief description of the duties, occupation or business which requires such absence; the special circumstances by which such absence is required, unless such duties, occupation or business are of a nature to require ordinarily absence from the state or county or require ordinarily traveling beyond the boundaries of the state or county, which shall include among others employee in the operation of railroad trains when the run of such employee crosses the boundary of the county, commercial traveler, actor, and federal employee having an office or position outside of the county, and that the affiant applies in good faith for an absentee voter's ballot or set of ballots, as the case may be. If the affiant is not required to register personally, the affidavit also may state that fact, that he has not and does not expect to register personally and that he requests an enrollment blank. Authentication of the signature, authority and official character of the officer before whom the affidavit purports to have been taken shall not be necessary when the affidavit is taken within the state; nor when it is taken without the state before a notary public, with seal, if his seal be affixed.

Source.—
Former
election
law, §§ 522,
524, 525.

§ 118. **Determination upon absentee voters' application for ballots; delivery of ballots.** 1. Upon receipt of such affidavit the board of elections shall determine upon such inquiry as it deems proper whether the applicant is a voter legally qualified to vote at such election, and if it finds he is not so qualified shall reject the application. An affidavit by any officer or employee of the board of elections or any police officer, sheriff or deputy sheriff, or a special deputy attorney-general appointed pursuant to the executive law, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days

Source.—
Former
election
law, § 525.

2. Tally. The official tally of votes cast for presidential electors shall be in the following form:

§ 117. **Application for ballots by absentee voters.** A qualified voter who, on the occurrence of any general election, may be unavoidable absent from the county of his residence because his duties, occupation or business require him to be elsewhere within the United States, may vote as an absentee voter under this chapter. A qualified voter desiring to vote at such election as an absentee voter may mail or deliver to the board of elections, so that it shall be received by the board not earlier than the thirtieth and not later than the seventeenth day before the general election, his affidavit subscribed by him, stating his name and residence address, including the street number, if any, or otherwise a brief description thereof; that he is a qualified voter of the election district in which he resides; that he expects in good faith to be unavoidably absent from the state or county of his residence on the day of the next general election because his duties, occupation or business require him to be elsewhere within the United States on such day, giving a brief description of the duties, occupation or business which requires such absence; the special circumstances by which such absence is required, unless such duties, occupation or business are of a nature to require ordinarily absence from the state or county or require ordinarily traveling beyond the boundaries of the state or county, which shall include among others employee in the operation of railroad trains when the run of such employee crosses the boundary of the county, commercial traveler, actor, and federal employee having an office or position outside of the county, and that the affiant applies in good faith for an absentee voter's ballot or set of ballots, as the case may be. If the affiant is not required to register personally, the affidavit also may state that fact, that he has not and does not expect to register personally and that he requests an enrollment blank. Authentication of the signature, authority and official character of the officer before whom the affidavit purports to have been taken shall not be necessary when the affidavit is taken within the state; nor when it is taken without the state before a notary public, with seal, if his seal be affixed.

Source.—
Former
election
law, §§ 522,
524, 525.

§ 118. **Determination upon absentee voters' application for ballots; delivery of ballots.** 1. Upon receipt of such affidavit the board of elections shall determine upon such inquiry as it deems proper whether the applicant is a voter legally qualified to vote at such election, and if it finds he is not so qualified shall reject the application. An affidavit by any officer or employee of the board of elections or any police officer, sheriff or deputy sheriff, or a special deputy attorney-general appointed pursuant to the executive law, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to such applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days

Source.—
Former
election
law, § 525.

before the election, shall be sufficient authority for a determination by the board that the applicant is not entitled to an absentee voter's ballot; but this provision shall not preclude the board from making such determination as the result of other inquiry. The board may, and if any member thereof shall so require, shall defer delivery of the ballot to the applicant until after the last day of registration and until it shall have ascertained that he is duly registered.

2. Except in the case of the occupations specifically enumerated in the preceding section, the board shall determine whether the duties, occupation or business of the applicant, as set forth in his affidavit, are of a nature ordinarily to require absence from the state or county or ordinarily to require traveling beyond the boundaries of the state or county, and shall determine, if they are found not to be of such a nature, whether the special circumstances, as set forth in the affidavit, are sufficient.

3. If the board shall find that the applicant is a qualified voter of the election district containing his residence as stated in his affidavit, and that his affidavit is sufficient, it shall, as soon as practicable after it shall have determined his right thereto, deliver to him, at the office of the board, or if he shall have so requested to a member of his family, or if he shall have so requested shall mail to him at an address in the United States designated by him, an absentee voter's ballot or set of ballots, and an envelope therefor. If the ballot or ballots are to be sent by mail, such determination shall be made at a time which will afford an opportunity for the transmission and due return of the ballot or ballots in the usual course of mail, depending on the location of the mailing address, and which will allow at least one secular day for marking the ballot or ballots, making the necessary affidavit and re-mailing; but the investigations shall be concluded and determinations made as to all applicants not later than the second Wednesday before election.

4. The board shall keep a record of applications, as they are received, for absentee voters' ballots, showing the names and residences of the applicants, and, as soon as practicable, shall give to the chairman of the county committee of each party a complete list of all applicants to whom absentee voters' ballots have been delivered.

§ 119. Ballots for absentee voters; lists of candidates. 1. In the city of New York the ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted in the district of the applicant on election day, except that the stub shall be endorsed with the words, printed or stamped, "Absentee Voter's Ballot." In such city, if the name of any candidate nominated is not shown on the ballot sent, the board of elections shall send with the ballot a notice specifying the name of such candidate, the office to which and the party or body by which he was nominated.

2. Elsewhere than in the city of New York there shall be one form of ballot for the absentee voters residing in each assembly district, which shall contain the names of all nominated candi-

Source.—
Former
election
law,
§§ 537, 538.

dates, so far as known, to be voted for by all the voters of the assembly district; but where a city is wholly within an assembly district, or an assembly district is partly within and partly outside of a city, if there are any city officers to be elected who may be voted for by all the voters of the city, there shall be separate ballots for absentee voters of such assembly district residing within and outside of the city, respectively, in such manner that the ballots for voters residing within the city shall contain the names of all nominated candidates, so far as known, to be voted for by all the voters of such district and of such city.

The names of candidates whose names are required to appear upon the ballot shall be printed in appropriate sections, with titles of offices, section numbers, emblems, voting squares, names of parties and political organizations and blank spaces for writing in names of candidates, as provided upon the regular official ballots. Following such matter, in as many columns as may be necessary, there shall be printed the titles, as near as may be, of all offices to be filled at such election, except offices as to which the names of nominated candidates are required to be printed. The offices shall be classified by appropriate descriptions, such as ward or town offices, using appropriate descriptions for other classes, if any. The title of each class shall be printed above the titles of offices in such class. Below the title of each such office shall be a space or spaces for writing in the name or names of the person or persons for whom the voter desires to vote. Approximately, one-half inch shall be allowed for the title of each class of offices and one-half inch space for the title of an office and writing in the name of a person as the voter's choice for such office. Except as to the spacing, such offices and titles shall be printed substantially as follows:

WARD OFFICES.

For supervisor of the ward of the city of (name of city to be printed if there is a separate ballot for any city officers).

For alderman of the ward of the city of (name of city to be printed if there is a separate ballot for any city officers).

TOWN OFFICES.

For supervisor of the town of (name of town to be written or stamped in by the board).

For justice of the peace, town of (name of town to be written or stamped in by the board).

Before the delivering or mailing of the ballot to the voter the description of the office shall be completed by writing or stamp-

ing in the name of the proper town, or number of the ward, or otherwise.

At the head of the ballot shall be printed the following instructions:

INSTRUCTIONS.

1. Mark only with a pencil having black lead.
2. To vote for a candidate whose name is printed on this ballot, make a single cross X mark in a blank square to the right of an emblem opposite his name.
3. To vote for a person whose name is not printed on this ballot write his name on a blank line under the names of candidates, or under the title of the office if the names of any candidates for that office are not printed. In such case, consult the list of candidates to see how many persons are to be elected to such office.
4. Any other mark or any erasure on this ballot is unlawful.

The ballot for electors of president and vice-president of the United States shall be separate and in the same form as the ballot for such electors to be voted by other voters.

The separate ballot or ballots upon constitutional amendments, propositions or questions, to be sent to absentee voters shall be in the same form as such ballots to be voted by other voters.

On the back of such ballots for absentee voters shall be printed the words "Official Ballot, Absentee Voters," followed by a word or words generally descriptive of the ballot, such as "General Officers," "Presidential Electors," "Constitutional Amendments and Propositions."

If the names of any candidates nominated in any county for whom any absentee voter may vote are not printed upon the ballot sent to absentee voters, the board of elections shall print a list, classified by assembly districts, of the names of all such candidates not so shown, nominated in the county, specifying the titles of the offices for which and the names of the parties or bodies by which they were nominated, and shall send one such list to every absentee voter to whom it is sending a ballot so incomplete.

Source.—
Former
election
law, § 529.

§ 120. **Envelopes for absentee voters' ballots.** The board of elections shall furnish with each absentee voter's ballot an envelope. On one side of the envelope shall be printed:

"OFFICIAL BALLOT, ABSENTEE VOTER,
for

GENERAL ELECTION, NOVEMBER . . . , 19..

Name of voter
Residence (street and number if any)
County of assembly district
(if the county contain more than one.)
City (or town) of
Ward
Election district

(Signature of absentee voter.)"

The date of the election, name of the county, number of assembly district, if any, and name of a city, if there be a separate ballot for city voters, shall be printed, and the name of voter, residence, name of town, number of ward and election district shall be written or stamped in by the board.

On the reverse side of such envelope shall be printed the following oath:

" OATH OF ABSENTEE VOTER.

I do swear (or affirm) that I will have been a citizen of the United States for ninety days and will be at least twenty-one years of age on the day of, 19..., being the date of the next general election; that I will have been an inhabitant of the state of New York for one year next preceding the election and for four months preceding such election a resident of the county of and am a qualified voter residing at (street and number, if any) in the city or town of; that I will be unavoidably absent from the state or county of my residence because of duties, occupation or business which require me to be elsewhere in the United States on the day of election; that I have not qualified nor do I intend to vote elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another. to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned and restored to all the rights of a citizen.

....."

Voter must sign here, and notary public, or other officer authorized by law to administer an oath, must administer and attest the oath.

Subscribed and sworn to before me, this

day of (here insert the date)

at

.....

Notary Public.

County of, state of

The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the oath, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must reach the office of the board of elections not later than noon of the Friday before election day in order that his vote may be canvassed.

Source.—
New.

§ 121. **Enrollment blanks for absentee voters whose registration is not personal.** If a voter who applies for an absentee voter's ballot is not required to register personally, and he shall have included in his application for a ballot a request for an enrollment blank, the board of elections shall furnish to him with his ballot an enrollment blank, in the form prescribed by section one hundred and seventy-two, except that in place of the matter preceding the words "that I am in general sympathy," there shall be substituted the words "I, ..., an applicant for an absentee voter's ballot, hereby declare." Separate printed forms for each town and election district shall not be printed. The board shall write in on the blank sent the name of the county, town and number of the election district.

Source.—
Former
election
law, § 530.

§ 122. **Method of voting by absentee voter.** The absentee voter, at any place within or without the state, but within the United States, may mark an official ballot provided for in this article, as follows: Where the office is one under whose title the names of any candidate are printed, he may vote for a candidate or person for such office in the manner prescribed for voting the regular official ballot. To vote for a person or persons for any other office, if he is lawfully entitled to vote for a person for that office, the voter may write in the blank space beneath the title of the office the name or names of the person or persons for whom he desires to vote, not exceeding the number to be elected to that office. He shall also fill the necessary blank spaces to complete the title of the office, if the board of elections has omitted to do so. He shall make no mark or writing whatsoever upon the ballot, except as above prescribed, and shall see that it bears no such mark or writing. He shall make no mark or writing whatsoever on the outside of the ballot. A voter whose registration was not required to be personal and who did not enroll on a day of registration and who received with his ballot an enrollment blank may mark such blank in the manner provided for marking a regular enrollment blank. After marking the ballot or ballots, and the enrollment blank if any, he shall fold each such ballot or blank and enclose them in the envelope and seal the envelope. He shall then take and subscribe the oath on the envelope, with blanks properly filled in. The envelope, containing the ballot or ballots, shall then be mailed or delivered to the board of elections of the county or city of his residence.

Source.—
Former
election
law, § 574,
in part.

§ 123. **Preservation of ballots; judicial or legislative examination.** Except as hereinafter provided, packages of protested, void and wholly blank ballots, packages of unused ballots and all absentee voters' envelopes, if any, opened or unopened, shall be preserved inviolate for six months after the election. Except as hereinafter provided, boxes containing voted ballots shall be preserved inviolate for six months after the election, or until one week before the next election occurring within six months, if such boxes are needed for use at such next election and if the officer or board in charge of such voted ballots is required by law to furnish ballot boxes therefor. Provided, however, that ballot boxes

and such packages may be opened, and their contents and the absentee voters' envelopes may be examined, upon the order of any court or justice of competent jurisdiction. Boxes containing ballots voted, at a general or special election, for the office of member of the senate or assembly, packages of void, protested and wholly blank ballots, unopened absentee voters' envelopes and the packages of unused ballots, in connection with such election, also may be opened, and their contents and such envelopes also may be examined, by direction of a committee of the senate or assembly to investigate and report on contested elections of members of the legislature. Unless otherwise ordered or directed by such a court, justice or committee, such boxes shall be opened and their contents and such packages and envelopes shall be destroyed, at the expiration of the period during which they are required by the provisions of this section to be preserved, except that instead of being destroyed, they may be sold and the proceeds paid over in the manner provided with respect to the sale of books, records and papers pertaining to an election.

§ 124. **Preservation and disposal of books, records and papers.** Except as otherwise provided in this section or this chapter, all petitions, certificates, objections or papers filed or deposited with a board or officer before an election or primary and relating to designations or nominations, and all registers, books, statements, returns or papers so filed or deposited after a registration, enrollment, election or primary at which they were used or to which they relate, not including, however, the voted, unused, protested, void or wholly blank ballots, shall be preserved by such board or officer for at least two years after the receipt thereof and until the determination of any action or proceeding touching the same or in which they are ordered to be preserved pending the action or proceeding. At the expiration of such time, they may be either destroyed or sold. Provided, however, that the following shall not be destroyed or sold but shall be preserved, as part of the records of such board or officer, until otherwise provided by law, to wit: poll-books, if any, containing signatures of voters; one register, in the office of the board of elections, for each election district where registration is not required to be personal, which contains names of the parties with which the voters enroll, unless there be in such office a printed pamphlet list of enrolled voters; registers containing signatures of voters made on a day of registration or general election; card lists, if any, of registered voters; identification statements for registration day; the original statements of results made by the state board of canvassers or a county or city board of canvassers; any original record specifying the name of a person declared to have been elected to a public office.

Source.—
Former
election
law, § 88,
in part,
 §§ 201, 202.

Upon the sale of any property authorized by this section to be destroyed or sold, the proceeds shall be paid over as follows: If sold by the board of elections, the proceeds shall be paid into the county treasury, or, in the city of New York, into the city treasury. If sold by the clerk of a city, town or village, the proceeds

shall be paid to its fiscal officer for its benefit. Proceeds of the sale of any such property in the office of the secretary of state shall be paid over as provided by law with respect to other state moneys in the hands of a state officer.

ARTICLE 6.

DESIGNATION AND NOMINATION OF CANDIDATES.

Section 130. Application of article.

131. Party nominations.
132. Conventions.
133. First nominations by a new party.
134. Designation by petition of candidates at primary election.
135. Form of designating petition.
136. Rules concerning designating petitions.
137. Independent nominations.
138. Declination of designation or nomination.
139. Filling vacancies in designations and nominations.
140. Times for filing petitions and certificates and for holding conventions.
141. Places for filing petitions and certificates; record; notices to candidates.
142. Objections to petitions or certificates of designation or nomination; notice of determination.
143. Special provisions affecting unofficial primaries in cities, and town and village caucuses.
144. Certain persons not eligible for nomination.

Source.—
New.

§ 130. **Application of article.** Nominations of candidates for election to public office, to be voted for by official ballot, are governed by this article, but this article shall not repeal nor affect the provisions of a statute, general or local, prescribing a particular method of making nominations of candidates for certain school or city offices.

Source.—
Former
election
law, §§ 45,
54, 91.

§ 131. **Party nominations.** 1. Party nominations of candidates for the office of elector of president and vice-president of the United States, one for each congressional district and two at large, shall be made by the state committee.

2. Party nominations of candidates for any other office to be filled by the voters of the entire state shall be made by state convention, except that a party, by rule adopted at a state convention preceding a general election in an even numbered year, may provide that its nominations of candidates for any such office to be filled in an odd-numbered year may be made by its state committee.

3. Party nominations of candidates for the office of justice of the supreme court shall be made by judicial district convention.

4. Party nominations of candidates for city offices to be filled at a regular city election held at a time other than that of a general election shall be made directly by enrolled party voters at unofficial primaries.

5. Party nominations of candidates for town and village offices, in any county, shall be made in the manner prescribed by the rules of the county committee, heretofore or hereafter adopted, except that party nominations for village offices, or for town offices to be filled at a time other than that of a general election, shall not be made at the primary elections. In the absence or until the adoption of such a rule, nominations for such offices may be made in accordance with the existing practice in the county. If a rule of the county committee provide that party candidates for town offices, in any town or towns of the county, to be filled at the time of general election, shall be nominated at the fall primary preceding the election, such rule shall not apply to nor affect a fall primary occurring less than sixty days after a certified copy of the rule shall have been filed with the board of elections. After the filing of such a copy of a rule heretofore or hereafter adopted, the rule shall continue in force until a certified copy of a rule revoking the same shall have been filed with such board at least sixty days before a subsequent fall primary preceding an election for filling such offices.

6. Party nominations for an office to be filled at a special election shall be made in the manner prescribed by the rules of the party.

7. A party nomination of a candidate for election to fill a vacancy, occurring after the fifth Tuesday preceding the fall primary, in an elective office required to be filled at the next general election, if it be an office for which party nominations might otherwise be made at a fall primary or by a convention of delegates chosen at such a primary, shall be filled, after the day of such primary, by a majority vote of a quorum of the state committee, if the vacancy occur in an office to be filled by all the voters of the state, and otherwise by a majority of a quorum of the members of the county committee or committees last elected in the political subdivision in which such vacancy is to be filled or by such other committee as the rules of the party may provide.

8. Party nominations of candidates for all offices to be filled at a general election, except as above provided, shall be made at the preceding fall primary.

9. Certificates of such nominations, made otherwise than at a fall primary, shall contain the name of the party which the body making the nomination represents, the title of the office for which each person is nominated, the name and residence of each such person, and if in a city, the street number of such residence and his place of business, if any, may name the committee, if any, appointed to fill vacancies in the nominations, and shall be signed by the presiding officer and a secretary of the body making the nomination, and appended to the certificate shall be their affidavit that they were such officers and that the statements in such certificate are true. When a nomination is made by a committee other than one composed of members of a state committee or a county committee, a certified copy of the rule or resolution constituting such committee, shall, if a copy thereof shall not have been filed previously, be attached to the certificate.

The provisions of the section are subject to the provisions of this article relating to nominations to fill vacancies in nominations and nominations by a new party.

Source.—
Former
election
law,
§§ 110-113

§ 132. **Conventions.** 1. A state or judicial district convention shall be constituted by the election at the preceding fall primary, from each assembly district, of delegates and of any alternate delegates provided for by party rules. The number of delegates and alternates, if any, from each district shall be determined by party rules, but the number of delegates from each assembly district shall be substantially in accordance with the ratio which the number of votes cast for the party candidate for governor at the last preceding general state election in such unit bears to the total vote cast at such election for such candidate in the entire state, and the number of alternates from any assembly district shall not exceed the number of delegates therefrom. If, by reason of a change in the boundaries of assembly districts after an election of governor, the exact vote at such election in the territory constituting an altered district is not ascertainable, such vote, for the purposes of this section, shall be estimated. The delegates certified or adjudicated to have been elected as such, in the manner provided in this chapter, shall be conclusively entitled to their seats, rights and votes as delegates to such convention. When a duly elected delegate does not attend the convention, his place shall be taken by one of the certified alternates, if any, to be substituted in his place, in the order in which the name of such alternate appears upon the certified list, and if no alternates shall have been elected or if no alternates appear at such convention, then the delegates present from the same assembly district shall select a person to fill the vacancy.

2. The time, subject to the provisions of section one hundred and forty, and the place of meeting of a state convention shall be fixed by the state committee and the time and place of meeting of a judicial district committee shall be fixed by a committee appointed pursuant to the rules of the state committee. The room designated for the meeting place of a convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee with whom the call originates or by a person designated in writing for that purpose by such chairman, or, if he fails to make such designation, then by a person designated in such manner as the rules of the party shall prescribe. Such chairman or person designated shall have the custody of the roll of the convention until it shall have been organized. No such convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof nor until a majority of the delegates or respective alternates named in the official roll shall be present. The roll call upon the election of temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of the delegates, including alternates

sufficient to make up such majority by substitution, are present. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof.

3. The temporary chairman shall be chosen upon a call of the official roll. The committees of the convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Unless the convention shall otherwise order, the permanent chairman shall be chosen on roll call. When the vote of such convention is taken upon the nomination of candidates for public office, the roll of the delegates shall be called and each delegate when his name is called shall arise in his place and announce his choice, except that the chairman of a delegation from any assembly district may, unless a member of such delegation objects, announce the vote of such delegation. The convention may appoint a committee to nominate candidates to fill vacancies in nominations made by the convention and caused by the death, declination or disqualification of a candidate. The permanent officers shall keep the records of the convention.

4. Within seventy-two hours after adjournment, the minutes of the convention, duly certified by the chairman and secretary, shall be filed with the secretary of state, except that the minutes of a judicial district convention in the first judicial district shall be filed with the board of elections of the city of New York.

§ 133. **First nominations by a new party.** When an independent body shall have become a party at a general election, nominations of such party for all offices to be filled at the first general election thereafter, and at any election held prior to such first general election, may be made in such manner as the rules of such party may provide. A certificate of such nominations, containing the title of the office for which each person is nominated, the name and residence of each such person, a representation of the device or emblem selected to designate and distinguish the candidates of such party, and, if in a city, the street number of the residence of each such candidate and his place of business, if any, shall be signed by the chairman and secretary of the body making such nominations. If such certificate shall not show such an emblem, an emblem shall be selected for such party in the manner prescribed for an independent body. The certificate may appoint a committee to fill vacancies. No board or officer shall receive for filing any such certificate of nomination unless a copy of the rules of such party, describing the rule-making body, also shall have been filed in its or his office. If there be any question or conflict relating to the rules or to the rule-making body, rules which a majority of the candidates of such party for offices to be filled by all the voters of the state, nominated by independent certificate and voted for at the general election at which it became a party, shall certify to have been duly adopted by a convention, committee or body thereto authorized, describing it, shall be controlling.

Source.—
Former
election
law, § 54a.

Source.—
Former
election
law, § 46.

§ 134. **Designation by petition of candidates at primary election.** The designation of a candidate for party nomination at a primary election or for election to party position thereat shall be by petition.

Source.—
Former
election
law,
§§ 47, 123.

§ 135. **Form of designating petition.** A designating petition shall be in substantially the following form:

I, the undersigned, do hereby state that I am a duly enrolled voter of the party and entitled to vote at the next primary election of such party, that my place of residence is truly stated opposite my signature hereto and that I intend to support at the ensuing primary and I do hereby designate the following named person (or persons) as a candidate (or as candidates) for nomination by such party for public office (or public offices) or for election to the party position (or party positions) of such party to be voted for at the primary election to be held on the day of, 19.., as hereinafter specified.

Name of candidate	Public office or party position	Place of residence	Place of business
.....			
.....			
.....			
.....			
.....			

I do hereby appoint (here insert the names and addresses of at least three persons, all of whom shall be enrolled voters of said party) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

Date	Name of signer	Residence	Election district, town or ward
.....			
.....			
.....			
.....			
.....			

STATE OF NEW YORK, }
COUNTY OF, } ss.:

On this day of, in the year, before me personally came (here shall be inserted the names of all the voters appearing and making oath before said officer), to me personally known, who, being by me duly sworn, each for himself or herself said that the foregoing statement made and subscribed by him or her, was true.

(Signature and official title of officer authorized to take affidavits.)

The petition also may be authenticated, as to all the signatures upon a separate sheet, by appending at the bottom of such sheet

an affidavit of a witness, who is a duly qualified voter of the state, as to the subscription thereof, substantially as follows:

STATE OF NEW YORK, }
COUNTY OF, } ss.:

..... (name of witness), being duly sworn, says: I am a duly qualified voter of the state of New York and reside at in the of (fill in residence) in such state. I know each of the voters whose names are subscribed to the above sheet of the foregoing petition containing (fill in number) signatures and each of them subscribed the same in my presence and upon so subscribing declared to me that the foregoing statement, made and subscribed by him or her, was true.

Sworn to before me, this
day of, 192..

Signature of witness.

Official title of officer.

Appended to the petition and filed therewith, shall be the affidavit of one of the signers to the petition, or of a member of the committee to fill vacancies, that he communicated personally or by mail or by telephone or telegraph, as the case may be with the person designated for the office or party position and that such person then expressly consented to be designated for such office or position; and such an affidavit shall be so appended and filed as to each candidate named in the petition.

§ 136. **Rules concerning designating petitions.** 1. A designating petition may designate candidates for nomination for one or more public offices or for election to one or more party positions, or both, but designations, petitions for which are required to be filed in different offices, may not be united in the same petition. All papers signed and authenticated as provided in this article for the purpose of designating the same candidate for nomination for the same public office or party position, when bound together and offered for filing, shall be deemed to constitute one petition in respect of such candidate.

Source.—
Former
election
law, § 44.

2. A petition must be signed by not less than three per centum, as determined by the preceding enrollment, of the enrolled voters of the party residing within the political unit in which the office or position is to be voted for, provided, however, that for the following public offices the number of signatures need not exceed the following limits: for any office to be filled by all the voters of the city of New York, one thousand five hundred signatures; for any office to be filled by all the voters of any other city of the first class or of any county or borough containing more than two hundred and fifty thousand inhabitants according to the last preceding federal or state enumeration, one thousand signatures; for any office to be filled by all the voters of any county or borough containing more than twenty-five thousand and not more than two hundred and fifty thousand inhabitants, according to such enu-

meration, or of any city of the second class or of any municipal court district in the city of New York or of any congressional or senatorial district, five hundred signatures; for any office to be filled by all the voters of any other county, or of any city of the third class, or of any assembly district, or of any aldermanic district in the city of New York, two hundred and fifty signatures; for any office to be filled by the voters of any political subdivision contained within another political subdivision, not to exceed the number of signatures required for the larger subdivision; and for any office to be filled by the voters of a political subdivision containing more than one assembly district, county or other political subdivision not to exceed the aggregate of the signatures required for the subdivisions or parts of subdivisions so contained.

The number of signatures on a petition to designate a candidate or candidates for the position of delegate or alternate to a state or judicial district convention or member of the state committee need not exceed the number required for a petition for member of assembly, and to designate a candidate or candidates for the position of district delegate to a national party convention need not exceed the number required for a petition for representative in congress.

3. If an enrolled voter shall sign any petition or petitions designating a greater number of candidates for public office or party position than the number of persons to be elected thereto his signatures, if they bear the same date, shall not be counted upon any petition, and if they bear different dates shall be counted in the order of their priority of date, for only so many designees as there are persons to be elected.

4. A signature made earlier than eleven weeks before the primary election shall not be counted.

Source.—
Former
election
law,
§§ 122, 123,
subd. 6.

§ 137. **Independent nominations.** 1. Independent nominations for public office may be made by a petition, which petition shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly qualified voter of the political unit for which a nomination for public office is hereby made, that my place of residence is truly stated opposite my signature hereto and that I intend to support at the ensuing election, and I do hereby nominate the following named person (or persons) as a candidate (or as candidates) for nomination for public office (or public offices) to be voted for at the election to be held on the day of, 19.., and that I select the name (fill in not more than five words) as the name of the independent body making the nomination (or nominations) and (fill in emblem), as the emblem of such body.

Name of candidate	Public office	Place of residence	Place of business
.....			
.....			
.....			
.....			
.....			

I do hereby appoint (here insert the name and addresses of at least three persons, all of whom shall be voters) as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof I have hereunto set my hand the day and year placed opposite my signature.

Date	Name of signer	Residence	Election district, town or ward
.....			
.....			
.....			
.....			
.....			

2. The petition shall be verified by the signers, or authenticated by witness, in the manner provided in section one hundred and thirty-five, in respect of a designating petition.

3. The emblem shown upon such petition shall conform to the requirements of section twenty, relating to a party emblem. If such a petition shall not show an emblem, the officer or board in whose office the petition is filed shall select an emblem to distinguish the candidates nominated thereby, except that if such petition be for the nomination of a candidate or candidates to be voted for by the voters of the entire state, the secretary of state shall select an emblem to distinguish the candidates of the independent body named in the petition, throughout the state.

4. An independent nominating petition for candidates to be voted for by all the voters of the state must be signed by at least twelve thousand voters, of whom at least fifty shall reside in each county of the state, the counties of Fulton and Hamilton to be considered as one county. Such a petition for a village office must be signed by voters numbering five per centum of the number of voters at the last regular village election. Such a petition for the nomination of candidates for an office to be filled by the voters of any other political unit must be signed by voters numbering five per centum of the total number of votes cast for governor at the last gubernatorial election in such unit; but not more than three thousand signatures shall be required upon any such petition for any office to be filled in any political subdivision of the state, and not more than one thousand five hundred signatures upon any such petition for any office to be filled in any county or portion thereof. The name of a person signing such a petition for an election for which voters are required to be registered shall not be counted unless such person shall, on one of the days of registration, in such year, be registered as a qualified voter. If the name of a person who has signed such a petition appear upon another petition nominating the same or a different person for the same office, it shall not be counted on either petition.

§ 138. Declination of designation or nomination. A person designated as a candidate for nomination or for party position, Source.—
Former

election
law,
§§ 50, 122.

or nominated for an office otherwise than at a primary election, may, in a certificate signed and acknowledged by him, and filed as provided in this article, decline the designation or nomination, or, if nominated by more than one party or independent body, may decline the nomination as a candidate of a specified party or independent body. The officer or board to whom or which such notification is given forthwith shall inform by mail or otherwise the committee authorized to fill the vacancy, that the designation or nomination has been declined, and if such declination be filed with the secretary of state, such officer also shall give immediate notice by mail or otherwise that such designation or nomination has been declined, to the several boards of elections which prepare the official ballots for election districts affected by such declination. When a person who was not designated for nomination at a primary election receives a nomination for public office at such primary election the officer or board with whom or which a designating petition for such an office is required to be filed forthwith shall notify, by mail, such person of his nomination. A person nominated as aforesaid, without designation, at a primary election, may decline such nomination not later than the fifth Tuesday preceding the general election for which he was nominated, and the vacancy may be filled not later than the fourth Tuesday preceding such election. A person whose name is printed on the primary ballot of a party, as a candidate for nomination by it to public office, and who is nominated therefor at the primary election, may not decline such nomination.

Source.—
Former
election
law,
§§ 90, 126.

§ 139. **Filling vacancies in designations and nominations.** A vacancy in a designation or nomination, caused by declination, where a declination is permitted by this article, or by the death or disqualification of the candidate, or by a tie vote at a fall primary or at an unofficial primary held for the nomination of candidates for city offices to be filled at a time other than that of the general election, may be filled by the making and filing of a certificate, setting forth the fact and cause of the vacancy, the name of the original candidate, if any, and the name, address and occupation of the candidate newly designated or nominated.

A vacancy in a designation or independent nomination, or in a party nomination made otherwise than at a fall primary, may be filled by a majority of the committee to fill vacancies shown upon the face of the petition or certificate of the designation or nomination in which the vacancy occurs, or, in the case of a tie vote at an unofficial primary held for the party nomination of candidates for city offices to be filled at a time other than that of the general election, by a majority of such committee as the rules of the county committee shall provide.

A vacancy in a nomination made at a fall primary, or by a tie vote thereat, may be filled by a majority of a quorum of the members of the county committee or committees last elected in the political subdivision in which such vacancy occurs, or by a majority of such other committee as the rules of the party may provide.

If the vacancy be filled by a committee named in a petition or certificate of nomination or designation, the new certificate shall be signed by a majority of such committee; if filled by any other committee, it shall be signed by the presiding officer and secretary of the committee. Appended to the certificate shall be the affidavit of the persons signing the certificate that they were a majority of such committee, or such officers, as the case may be, and that the statements in such certificate are true.

If a person be designated to fill a vacancy in a designation caused by a declination thereof, the certificate designating such persons shall have appended thereto his written consent to be so designated, duly acknowledged.

When a certificate of a new designation or nomination shall be filed with the secretary of state, he shall forthwith certify to the proper board of elections the name of the person designated or nominated by such certificate and such other facts as are required to be stated therein.

§ 140. Times for filing petitions and certificates and for holding conventions. 1. A designating petition shall be filed not earlier than the fifth Tuesday and not later than the fourth Tuesday preceding the primary election.

2. A declination of a designation shall be filed not later than the third day after the fourth Tuesday preceding the primary election.

3. A certificate to fill a vacancy in a designation caused by declination shall be filed not later than the third Tuesday preceding the primary election.

4. A state convention for nominating candidates for public office or a judicial district convention shall be held not earlier than the day following the sixth Tuesday preceding the general election.

5. A certificate of party nomination for an office to be filled at the time of a general election shall be filed not later than the fifth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than twenty-one days preceding such election.

6. A certificate of declination of a party nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the fifth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than eighteen days preceding such election.

7. A certificate to fill a vacancy caused by declination of a party nomination for an office to be filled at the time of a general election shall be filed not later than the fourth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than fourteen days preceding such election.

8. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier

Source.—
Former
election
law, §§ 49,
50, 112, 121,
123, 133,
136.

than the fifth Tuesday and not later than the fourth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than fourteen days preceding such election.

9. A certificate of declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the third day after the fourth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than eleven days preceding such election.

10. A certificate to fill a vacancy caused by declination of an independent nomination for an office to be filled at a time other than that of a general election shall be filed not later than the sixth day after the fourth Tuesday preceding such election, and for an office to be filled at an election at a time other than that of a general election shall be filed not later than eight days preceding such election.

If a vacancy described in subdivision seven of section one hundred and thirty-one occur too late to comply with the provisions of this section, the certificates of nomination, declination and to fill a vacancy in such nomination shall be filed as soon as practicable.

Source.—
Former
election
law,
§§ 49, 127.

§ 141. **Places for filing petitions and certificates; record; notices to candidates.** The places for filing the petitions and certificates specified in this article shall be respectively as follows: for an office or position to be voted for wholly within the city of New York in the office of the board of elections of that city; elsewhere, for an office or position to be voted for in a district greater than a county, in the office of the secretary of state; for the office of member of assembly for Fulton and Hamilton counties, in the office of the board of elections of Fulton county, and a certified copy thereof in the office of the board of elections of Hamilton county; for a city, town or village office to be filled at an election held at a time other than that of a general election in the office of the city, town or village clerk; in all other cases in the office of the board of elections of the county. All such petitions and certificates shall at the time of the filing thereof be endorsed by such officer or board with the day, hour and minute of such filing. Such officer or board shall keep a book, which shall be open to public inspection, in which shall be entered the times of filing all such petitions and certificates; the names and residences of all candidates named therein; the names and residences of all candidates certified to such officer or board; the title of the office or party position, the name of the party or independent body to which the petition or certificate relates and a memorandum of any objections to such petition or certificate. Forthwith upon the filing of a petition designating a person or persons for nomination to public office, such officer or board shall mail notice thereof to each such person.

Source.—
Former
election
law,
§§ 55a, 134.

§ 142. **Objections to petitions or certificates of designation or nomination; notice of determination.** A written objection to

any petition or certificate of designation or nomination may be filed with the officer or board with whom the original petition or certificate is filed within three days after the filing of the petition or certificate to which objection is made, except that if by any independent nominating petition any person is nominated who is at the time or shall be after the filing of such petition, the candidate of a party for the same office and the party certificate has been filed or party nomination made after the filing of such petition, the written objection to such petition may be filed within three days after the filing of such party certificate or the making of such party nomination.

When a determination of such objections is made, or, no objections having been filed, when a determination is made that a certificate or petition is insufficient, such officer or board shall give notice of the determination forthwith by mail to each candidate named in the petition or certificate, and, if the determination is made upon objections, to the objector.

§ 143. **Special provisions affecting unofficial primaries in cities, and town and village caucuses.** A notice of any unofficial primary held for making party nominations of candidates for city offices to be filled at a regular city election held at a time other than the general election shall be given by the proper party authorities by publication at least once in each of the two weeks preceding the primary in at least one newspaper published in the city. A notice of any party caucus held for making party nominations of candidates for town or village offices shall be given by the proper party authorities either by newspaper publication thereof once within the town or village at least one week and not more than two weeks, or by posting in ten public places in the town or village at least ten days, preceding the caucus. The notice shall specify the time and place or places, and the purpose, of the primary or caucus. For such an unofficial primary in a city, there shall be at least one polling place in each ward. There shall be a chairman and secretary, and there may be tellers, for each such unofficial primary or caucus, and they shall take the constitutional oath of office before acting. No person shall participate in such an unofficial primary in a city unless he is an enrolled party voter as shall appear from a transcript of the enrollment from the register, and the rules of the county committee in which the town is located may make the same requirement with respect to a caucus for the nomination of candidates for town offices. Unofficial primaries and town and village caucuses described in this section shall be held at the expense of the party. Subject to the foregoing provisions, the county committee of the county containing the city, town or village may prescribe rules governing the conduct of the unofficial primaries and caucuses described in this section.

Source.—
Former
election
law, § 22.

§ 144. **Certain persons not eligible for nomination.** A person shall not be nominated for a public office who is not a citizen of the state of New York.

Source.—
New.

ARTICLE 7.

REGISTRATION AND ENROLLMENT OF VOTERS.

- Section 150. Qualifications of voters.
151. Gaining or losing a residence.
152. Persons excluded from the suffrage.
153. Annual meetings for registration.
154. Method of registration in cities and villages of five thousand inhabitants or more.
155. Method of registration in election districts outside of cities and villages of five thousand inhabitants or more.
156. Additional meetings for registration, except in the city of New York.
157. Registration for other than general elections.
158. Duties of inspectors at registration, in a new election district, for an election other than general election.
159. Supplying vacancies or absences of inspectors.
160. General provisions as to conduct of meetings.
161. Watchers.
162. Register of voters; no registration required for certain elections.
163. General duties of inspectors where registration is required to be personal; identification of illiterates in cities of over fifteen thousand inhabitants.
164. Form and contents of register in a city of over one million inhabitants.
165. Form and contents of register outside of a city of over one million inhabitants.
166. Test or proof of literacy.
167. Illiterate and disabled voters.
168. Production of naturalization papers.
169. Challenging applicants for registration.
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171. Enrollment by voters.
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173. Delivery of copies of proposed constitutional amendments, propositions or questions.
174. Change of registry where voter registered in wrong district.
175. Correction of register in case of change of residence of voter within election district.
176. Card lists of registered voters in cities of the first and second class.
177. Daily certification of register; certificate to board of elections.
178. Investigation into truth of challenge affidavits; custody of duplicates.
179. Completion and certification of registers, at close of registration; certificate to board of elections.
180. Preparation of registry lists.

Section 181. Custody of registers, boxes and flag.

182. Return of boxes and flag, in election districts where registration is required to be personal.

183. Opening of enrollment box and completion of enrollment.

184. Application for special enrollment, transfer or correction of enrollment.

185. Duties of board of elections in respect of special enrollments, transfers and corrections.

§ 150. **Qualifications of voters.** A person is a qualified voter in any election district for the purpose of having his or her name placed on the register if he or she is or will be on the day of the election qualified to vote at the election for which such registration is made. A qualified voter is a citizen who is or will be on the day of election twenty-one years of age, and who has been an inhabitant of the state for one year next preceding the election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he or she offers his or her vote. If a naturalized citizen, such person must, in addition to the foregoing provision, have been naturalized at least ninety days prior to the day of election, or, if a citizen by marriage, must have been an inhabitant of the United States for five years and married ninety days prior to such day. In the case of a person who became entitled to vote by attaining majority, by naturalization or otherwise after January first, nineteen hundred and twenty-two, such person must, in addition to the foregoing provisions, be able, except for physical disability, to read and write English. A "new voter," within the meaning of this and the next article, is a person who, if he is entitled to vote in this state, shall have become so entitled by attaining majority, by naturalization or otherwise after January first, nineteen hundred and twenty-two.

Source.—
Former
election
law, § 162.

§ 151. **Gaining or losing a residence.** For the purpose of registering and voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. Any person claiming to belong to any class of persons mentioned in this section shall file with the board of inspectors at the time of registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong. Such statement shall be attached to the register, and the fact thereof shall be noted in the register opposite the name of the person so registered.

Source.—
Former
election
law, § 163.

§ 152. **Persons excluded from the suffrage.** No person who shall receive, accept, or offer to receive, or pay, offer or prom-

Source.—
Former
election
law, § 175.

ise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or any other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or for registering or refraining from registering as a voter, or who shall make any promise to influence the giving or withholding any such vote or registration, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of an election, shall vote at such election. No person who has been convicted of a felony shall have the right to register for or vote at any election unless he shall have been pardoned and restored to the rights of citizenship.

Source.—
Former
election
law, § 150.

§ 153. **Annual meetings for registration.** 1. Except in the city of New York, the board of inspectors for each election district in every city having five thousand inhabitants or more, or wholly or partly within a village having five thousand inhabitants or more, shall hold, before every general election, four meetings for the registration of the voters thereof, at the place designated therefor, to be known respectively as the first, second, third and fourth meetings for registration. Such meetings shall be held on the fourth Friday, fourth Saturday, third Friday and third Saturday before such election. Each meeting except the last shall begin at ten o'clock, and the last meeting at seven o'clock, in the forenoon, and each meeting shall continue until ten o'clock in the evening.

2. The board of inspectors for each election district other than an election district in a city or village having five thousand inhabitants or more shall hold before every general election two meetings for the registration of the voters thereof, at the place designated therefor, to be known respectively as the first and second meetings for registration. Such meetings shall be held on the fourth and third Saturdays before such election. The first meeting shall begin at seven o'clock in the forenoon and the second at one o'clock in the afternoon, and each meeting shall continue until ten o'clock in the evening.

3. The board of inspectors for each election district in the city of New York shall hold before every general election six meetings for the registration of the voters thereof at the place designated therefor. Such meetings shall begin on Monday the twenty-ninth day before such election and continue on each day of the same week up to and including Saturday. On each day except Saturday the meeting shall begin at five o'clock in the evening, and on Saturday at seven o'clock in the morning, and each meeting shall continue until half past ten o'clock in the evening.

Source.—
Former
election
law, § 153.

§ 154. **Method of registration in cities and villages of five thousand inhabitants or more.** In cities and villages having five thousand inhabitants or more, the names of such persons only as personally appear before the inspectors, and who are or will be at the election for which the registration is made, qualified voters, shall be registered for a general election, except that whenever any election district in a village having five thousand inhabitants or more shall embrace within its boundaries territory with-

out the limits of such village, the inspectors shall, at their first meeting for registration for a general election, place upon such register the names of all persons appearing on the register of the last preceding general election who reside without the limits of such village but within the election district and who voted at such last preceding general election, except the names of such voters as are proven to the satisfaction of such inspectors to have ceased to be voters since such general election or to have moved within the limits of such village. They shall also place upon such register, at their first and subsequent meetings, the names of all other persons residing without the limits of the village and within such election district who are known or proven to the satisfaction of the inspectors to be then or thereafter entitled to vote at such election and who reside within such election district but without the limits of such village. The provisions of the next section in relation to the registration of new voters shall apply to a new voter residing without the limits of the village. A qualified voter in such an election district residing outside of such village may apply, but is not required to apply, in person to be registered.

§ 155. Method of registration in election districts outside of cities and villages of five thousand inhabitants or more. At the first meeting for registration in any election district wholly outside of a city or village having five thousand inhabitants or more the inspectors shall place upon the register the names of all persons who voted at the last preceding general election, as shown by the register of such election, except the names of such voters as are proven to the satisfaction of such inspectors to have ceased to be voters in such district since such general election, and also at such first meeting and at the second meeting they shall place on the register the names of all other persons known or proven to the satisfaction of the inspectors to be then or thereafter entitled to vote at such election. In the case of a new voter, unless a majority of the inspectors know or it be proven to their satisfaction that he is able, except for physical disability, to read and write English, the inspectors shall write opposite his name, in the last column of the registers, the word "examine." If any voter shall, upon oath, declare that he has reason to believe that such new voter is not able, except for physical disability, to read and write English, the inspectors shall likewise write opposite his name the word "examine." If no person in the election district is to be examined, the inspectors or one of them shall notify the board of elections, and such board need not provide at the election the printed slips for such an examination.

A qualified voter in such an election district may apply, but is not required to apply, in person, to be registered.

§ 156. Additional meetings for registration, except in the city of New York. If a special election be called by the governor, or an election at which registered voters only may participate be appointed by or pursuant to law for a time other than the day of general election, the inspectors of election of the various election districts in the political subdivision for which such special

Source.—
Former
election
law, § 159.

Source.—
Former
election
law, § 151.

or other election is to be held, except in the city of New York, shall meet in their respective districts on the second Saturday preceding such election, from eight o'clock in the forenoon to ten o'clock in the evening, for the purpose of revising and correcting the register of voters, two copies of which, one being the registration signature copy if any, shall be delivered to them for that purpose by the board of elections.

Source.—
Former
election
law, § 160.

§ 157. **Registration for other than general elections.** 1. In a city or village having five thousand inhabitants or more, at the meeting of the board of inspectors for revising and correcting the register for any election other than a general election, the inspectors shall retain upon the register the names of all persons qualified to vote at such election in the election district which appear upon the register for the preceding general election, except the names of such voters as are proven to the satisfaction of the inspectors to have ceased to be voters of the district, and shall, at such meeting, add only to the register the names of persons qualified as voters who shall personally appear before the board. So far as practicable, the provisions of this chapter relating to registration on a day of annual registration in such a city or village shall apply to the personal registration of such additional voters. If the voter resides within the election district but without the limits of such village, his name shall be placed upon the register, if it be shown to the satisfaction of the board that he is entitled to vote in such district. In all election districts other than in cities or villages having five thousand inhabitants or more, the board of inspectors in preparing for an election other than a general election shall add to the register for the last preceding general election the names of such persons as they know are or are satisfied by proof will be on the day of such election qualified to vote thereat, and shall strike therefrom the names of all persons who are known or are proven to their satisfaction to have ceased to be qualified voters of such election district. If the name of a voter is already on a register to be used at such election in an election district, he shall not apply for registration, nor knowingly allow his name to be registered, for such election, at any such meeting, in another election district, without first notifying the inspectors of the first mentioned district, or at least two of them of opposite political faith, that he is no longer a qualified voter therein and specifying the election district to which he has moved and in which he intends to be registered, and the board of inspectors of the election district from which the voter so states that he has removed shall, at its meeting preceding such election, strike his name from the register of such district, if satisfied that he has removed therefrom, and shall make an entry in their registers specifying the election district to which the voter claims to have removed. If, when a person applies in person to a board of inspectors for such an election, the inspectors or any of them shall know or suspect, or the applicant's answer to the question as to where he last registered or voted, shall disclose, that his name may be on the register for such election in

another election district, the inspectors, before placing his name on the register, shall require him to make oath as follows: "I have given the notice required by law to have my name stricken from any other register to be used at this election."

2. In the city of New York, the board of elections shall make the necessary changes in the registers for any election district, for the purposes of a special election, on any day during office hours after the issuance of the proclamation for such election and not later than the second Saturday preceding the election, and applicants for registration therefor may apply for registration in person, and not otherwise, during such times. The board shall have, in respect of any election district in the city, the powers and duties of a board of inspectors at a meeting in a city of over five thousand inhabitants to revise and correct the register for an election held at a time other than that of the general election, except as otherwise provided herein. When an applicant applies to such board of elections for registration for such special election, he shall be required to give under oath his answers to all questions, touching his identity and qualifications, which may be asked. If it shall appear from his answers or otherwise that he was registered for the last preceding general election elsewhere within the city, the board shall examine the register for the election district in which he was so registered and shall compare the information and the signature if any of the voter appearing on such register, or his identification statement if any made on a day of the preceding annual registration, with the information given and signature or identification statement made when he applies to be registered for such special election, and if he is found qualified to be and is registered for such election, the board shall strike his name from the register of such other election district and shall also transfer his enrollment if both districts are in the same county; provided, however, that when an applicant claims to have registered for the preceding general election elsewhere in the city, he shall not be registered for such special election nor shall the name, as given by him, be stricken from the register of any election district unless the board is satisfied of his identity. Applications for registration under this subdivision may be made at the office or branch office of such board within the borough containing the election district in which the applicant seeks to be registered, and the powers and duties of the board may be exercised thereat by all the members of the board, or, if the board shall so direct, by two members of opposite political faith, or by one member and a designated employee of opposite political faith, or by two designated employees of opposite political faith.

3. No voter shall cause his name to be placed, or knowingly permit his name to be placed, upon the register of an election district for any election other than a general election while he has any reason to believe that his name appears upon the register of another election district to be used at such election.

Source.—
Former
election
law, § 183,
in part.

§ 158. Duties of inspectors at registration, in a new election district, for an election other than general election. At a meeting of the board of inspectors for the registration of voters for an election other than a general election, in an election district created since the general election, such inspectors shall make a new register, in duplicate, and shall place thereon the names of all persons whose names are on the copies of registers furnished by the board of elections who appear on such copies as residents of such new district and who are still qualified to vote therein at such election, and the names of other qualified voters in such new district, but in a city or village having five thousand inhabitants or more they shall not register a person whose name is not on any such copy or who does not appear thereon as residing within the territory of such new district, unless he applies in person for registration, except a qualified voter residing in such a district and outside of the village. The board of elections of the city of New York, in the case of such a newly created district and a special election, shall prepare, between the issuance of the proclamation for such election and the second Saturday before the election, a duplicate register for such election, in the manner above provided, from the registers for the several districts out of which the new district is formed and shall register additional voters, if any, in the manner prescribed in the last section. When names are copied pursuant to this section, all entries in connection therewith, relating both to registration and enrollment also shall be copied, and the new registers shall be the registers for a subsequent election or primary occurring before the next general election.

Source.—
Former
election
law, § 213.

§ 159. Supplying vacancies or absences of inspectors. 1. If at the time of any meeting of the inspectors for registration there shall be a vacancy, or if any inspectors shall be absent, the inspector present who is a member of the same party as the absent inspector shall appoint a qualified voter of the district who is a member of the same party to act in place of the absent inspector for the whole of that day.

2. If at any such meeting two inspectors who are members of the same party shall be absent, the inspector or inspectors present shall appoint qualified voters of the district, who are members of the same party as the absent inspectors, to act until such absent inspectors, or their successors duly appointed by the original appointing authority, shall appear.

3. If at any such meeting there shall be vacancies in all the offices of inspectors, or if no inspector shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the district present, not less than ten, may name four qualified voters of the district, equally divided between the two parties entitled to representation, to act until such absent inspectors or their successors duly appointed by the original appointing authority, shall appear.

4. Every person so appointed or named shall take the oath of office. A person appointed or named for temporary service

shall receive no pay unless he shall serve for the whole or the remainder of the day.

§ 160. **General provisions as to conduct of meetings.** No part of a day fixed for the registration of voters shall be deemed a holiday so as to affect any meeting or proceeding of the board of inspectors for registration. All meetings of the board of inspectors for registration shall be public. An American flag, approximately three feet by five feet in size, shall be displayed in each place of registration during the hours of registration. The place of registration and the enrollment booths shall be kept clearly lighted. Before entering on their duties the inspectors of each district shall appoint one of their number chairman, to serve as such during his term of office, or if a majority shall not agree upon such an appointment, they shall draw lots for that position. The inspectors shall act as a board and a majority thereof shall decide questions. In each election district in a town, where paper ballots or two voting machines are to be used, the two inspectors of each party, at the first meeting for registration following the appointment of inspectors for such a district, shall appoint a clerk who shall be a voter and a member of such party, to represent such party, to serve on election day during the term of the inspectors appointing him. There shall be no smoking in any place of registration in any church or school. The map or maps furnished showing the election district shall in cities be posted in the place of registration and shall remain posted until the close of the general election. No political banner, poster or placard shall be allowed in or upon the place of registration during any day of registration. Where an oath is required or permitted by this article at any meeting for registration, any inspector may administer it. The inspectors, and each of them, shall preserve good order within and around the place of registration and keep access thereto unobstructed. The board or any member thereof by order in writing may direct the arrest of any person refusing to obey the lawful commands of the inspectors, or guilty of disorderly conduct disturbing their proceedings, or violating, or attempting to violate, any of the provisions of this chapter or of the article of the penal law specifying crimes concerning the elective franchise. Any peace officer or any person designated by the board shall execute the order.

§ 161. **Watchers.** Each political party or independent body duly filing or entitled to file certificates of nominations of candidates for offices to be filled at the election may, by a writing signed by the duly authorized county, city, town or village committee of such political party or independent body, or by the chairman or secretary thereof charged with that duty, and delivered to and filed with one of the inspectors of election, appoint not more than two watchers to attend any meeting or meetings of the inspectors for an election district held for the registration of voters thereof. Each watcher must be a qualified voter of the city or county in which is located the election district for which he is appointed a watcher. Such watchers may be present at such

Source.—
Former
election
law, §§ 284,
313, 315.

Source.—
Former
election
law, § 152

place of registration from at least fifteen minutes before the commencement of such meeting until after the completion of the duties of the board of inspectors for that day of registration. Any watcher may examine any challenge list furnished by the board of elections.

Source.—
Former
election
law, § 154.

§ 162. **Register of voters; no registration required for certain elections.** The board of inspectors of each election district, at its meetings for registration before the general election in each year, shall make a register in quadruplicate, one copy to be made by each inspector, of those persons, and none other, who are or will be qualified to vote in such district at such election, which register when completed shall be the register of voters of the district for such election. Such register, as the same may be revised or corrected pursuant to this article, or the required number of copies thereof, also shall be used at all other elections, including primaries, held in such district during the year succeeding such general election, except at town meetings and village elections for which no registration is required. No registration of voters shall be required for town or village elections, except as provided in the village law, and except that when a town or village election is held at the same time with a general election all voters in such town or village to be entitled to vote at such town or village election must be registered as provided by law for the registration of voters for any general election in such town or village.

Source.—
Former
election
law, § 154.

§ 163. **General duties of inspectors where registration is required to be personal; identification of illiterates in cities of over fifteen thousand inhabitants.** 1. In all election districts where registration is required to be personal, when a voter presents himself for registration, an inspector designated by the board of inspectors shall ascertain from him the information required to be entered in the register. Each inspector shall enter in ink in the appropriate column of the register made by him the information given by such person. The initials of a woman's husband shall not be included in her name nor shall the abbreviation "Mrs." be prefixed to her Christian or given name; and this provision applies also to her signature, in a district where voters sign the register. If it appear from the answers of the person applying for registration or if the inspectors shall know or it be proven to their satisfaction that such person is a new voter, as defined by section one hundred and fifty, he shall not be registered unless it appears to the satisfaction of the board of inspectors, by the test or proof prescribed by section one hundred and sixty-six, that he is able to read and write English, except in the case of such a voter who is shown to be incapacitated therefrom by physical disability.

2. In a city of over fifteen thousand inhabitants, if the voter, other than a new voter, alleges his inability to sign his name, or if, in such a city, a new voter who is able, except for physical disability, to write, alleges that by reason only of such disability he is unable to sign his name, one of the inspectors designated by the chairman shall read to the voter the following list of

questions from the book of identification statements for registration day, and such inspector shall write in such book the answers of the voter, to such questions: What is your true name? What is or was your father's full name? What is or was your mother's full name? What is your occupation? What is the name of your present employer? If unemployed, what is the name of your last employer? Where is or was his place of business? Are you married or single? Where did you actually reside immediately prior to taking up your present residence; state floor and character of premises? The number on the sheet which contains the voter's answers, in such book, shall be entered by such inspector opposite the voter's name in the registration signature copy of the register, in the column for signatures and numbers of identification statements. Such inspector shall sign and date the certificate at the end of the list of questions so read and answered, which certificate shall be as follows: "I certify that I have read to the above named voter each of the foregoing questions and that I have truly recorded his answers as above to each of the questions." The book of identification statements for registration day shall be kept at all times with the registration signature copy of the register.

§ 164. **Form and contents of register in a city of over one million inhabitants.** This section shall apply only to the register for an election district within a city of over one million inhabitants. The leaves of such register shall be indexed from A to Z. Such register shall be arranged in thirty-six columns, each to be appropriately entitled to indicate its purposes. In the first column shall be entered at the time of the completion of registration on the last day, but not before, the registration number of each person registered. In column two shall be entered on each day of registration the date of the registration of each voter. In column three shall be entered by the inspectors the enrollment number of the voter. Column four shall be reserved for the name of the party with which the voter enrolls, to be entered in two copies by the board of elections. In column five shall be entered by the inspectors the surnames of the persons registered, in the alphabetical order of the first letters thereof, on the page bearing the index letter of the surname. In column six shall be entered by the inspectors the christian name or names of such persons, respectively and the middle initial or initials, if any. In column seven shall be entered by the inspectors the street number, if any, of the voter's residence. In column eight shall be entered by the inspectors the name of the street or avenue of such residence or a brief description of the locality thereof. Columns nine to seventeen, inclusive, shall be reserved for election and primary day entries, for which three sections of three columns each shall be provided, in the following order: The first section shall be used for entries at, and shall be entitled "general election," the next section shall be used for entries at, and shall be entitled "special election," and the last section shall be used for entries at, and shall be entitled "fall primary," except that in the register to be

Source.—
Former
election
law. § 154

used during the year of a spring primary, the last two sections shall be used for entries at, and shall be entitled, in the following order, "spring primary" and "fall primary." The three columns in each such section shall be for entering therein on the day of election or primary, in the following order, the number on ballot delivered to voter, number on ballot voted and "remarks" regarding challenges, oaths, assisted voters and other facts required to be recorded. In column eighteen shall be entered the voter's age, except that a voter over thirty years of age may state such age as "over thirty" and have it so entered in the register. In column nineteen shall be entered, if the voter be a citizen by marriage, the length of time that the voter has been an inhabitant of the United States. In column twenty shall be entered the fact as to whether the voter is "married, single or widowed." In columns twenty-one, twenty-two and twenty-three, shall be entered the voter's length of residence by years, months and days, as the case may be, in the state, county and election district, respectively. In column twenty-four shall be entered the country of the voter's nativity, which shall mean the country, state or province of the voter's birth, irrespective of former political allegiance. In column twenty-five, if the voter be a naturalized citizen, shall be entered the date of the naturalization certificate, or, in the case of a woman who claims citizenship by marriage, the name of the person to whom married, and if the husband is a naturalized citizen the date of his naturalization certificate. In column twenty-six shall be entered the designation of the court issuing any such naturalization certificate. In columns twenty-seven, twenty-eight, twenty-nine and thirty shall be entered, respectively, the name of the state, the city or town and the street number and the name of the street or avenue of the residence of such voter from which he last registered or voted, and the year in which he last registered or voted. In column thirty-one shall be entered the number of the room or floor occupied by the voter at the residence stated by him. In column thirty-two shall be entered the full name of the householder, tenant, subtenant or apartment lessee with whom the voter resides. In column thirty-three shall be entered, if the voter is in business for himself or with others, the name under which he is so in business, or if the voter is employed by some other person, the name of his present employer. If he is not in business and has no employment, the word "none" shall be entered, together with the name under which he was last in business or the name of his last employer, if any. In column thirty-four shall be entered the street and number, or if he has no street number, a brief description of the location of the place, if any, where he is so in business or employed, or, if unemployed, the place, if any, where he was last in business or employed. The information required to be stated in columns thirty-three and thirty-four shall be asked only in the event that the person offering to register shall not have registered for the general election immediately preceding in the same election district. Column thirty-five shall be used for the signatures

or numbers of identification statements of voters during registration in one copy only of the register. Above each horizontal line in such column shall be printed the words "the foregoing statements are true." The voter, at the time of registration, unless he alleges his inability to write, shall sign his name by his own hand, using an indelible pencil or ink, below such words in such column. The copy used for such signatures at the registration shall be a register other than the public copy, shall be kept by an inspector of opposite political faith from the chairman and shall be known as the "registration signature copy." In column thirty-six, to be known as "registration remarks" column, shall be entered facts regarding challenges, oaths and other matters required to be recorded on a day of registration.

§ 165. **Form and contents of register outside of a city of over one million inhabitants.** This section shall apply only to the register for an election district outside of a city of over one million inhabitants. The leaves of such register shall be indexed from A to Z. The register for an election district in which the registration is not required to be personal as to any of the voters shall have the first seventeen columns described below and the registration remarks column. The register for any other election district shall have the said seventeen columns, the additional columns hereinafter prescribed and such "registration remarks column," which shall be given the last and highest number. All columns shall be appropriately entitled to indicate their purpose. Subject to the foregoing provisions, the register shall be arranged and prepared as follows:

Source.—
Former
election
law, § 156.

1. In the first column shall be entered at the time of the completion of registration on the last day, but not before, the registration number of each person registered. In column two shall be entered by the inspectors the enrollment number of the voter. In column three shall be entered by the inspectors the surnames of the persons registered, in the alphabetical order of the first letters thereof, on the page bearing the index letter of the surname. In column four shall be entered by the inspectors the christian name or names of such persons, respectively, and the middle initial or initials, if any. In column five shall be entered by the inspectors the street number, if any, of the voter's residence. In column six shall be entered by the inspectors the name of the street or avenue of such residence or a brief description of the locality thereof, and the rural free delivery number, if any. Column seven shall be reserved for the name of the party with which the voter enrolls to be entered by the board of elections. Columns eight to sixteen, inclusive, shall be reserved for election and primary day entries, for which three sections of three columns each shall be provided, in the following order: The first section shall be used for and be entitled "poll-book, fall primary," the next section shall be used for and be entitled "poll book for election other than general or primary election," and the last section shall be used for and be entitled "general election poll-book," except that in the register to be used during the year of a spring

primary, the first two sections shall be used for and be entitled, in the following order, "poll-book, spring primary" and "poll-book, fall primary." The three columns in each such section shall be for entering therein on the day of election or primary, in the following order, the number on ballot delivered to voter, number on ballot voted and "remarks" regarding challenges, oaths, assisted voters and other facts required to be recorded. In column seventeen shall be entered by the inspectors on each day of registration the date of the registration of each voter. In the final column, to be known as the "registration remarks" column, shall be entered facts regarding challenges, oaths and other matters required to be recorded on a day of registration.

2. In an election district in which registration is required to be personal as to any of the voters outside of a city of over fifteen thousand inhabitants, the register shall have the following additional columns to follow column seventeen for the following entries, to be made on each day of registration: In column eighteen shall be entered the voter's age, except that a voter over thirty years of age may state such age as "over thirty" and have it so entered in the register. In column nineteen shall be entered, if the voter be a citizen by marriage, the length of time that the voter has been an inhabitant of the United States. In column twenty shall be entered the fact as to whether the voter is "married, single or widowed." In columns twenty-one, twenty-two and twenty-three, shall be entered the voter's length of residence by years, months and days, as the case may be, in the state, county and election district, respectively. In column twenty-four shall be entered the country of the voter's nativity, which shall mean the country, state or province of the voter's birth, irrespective of former political allegiance. In column twenty-five, if the voter be a naturalized citizen, shall be entered the date of the naturalization certificate, or, in the case of a woman who claims citizenship by marriage, the name of the person to whom married, and if the husband is a naturalized citizen the date of his naturalization certificate. In column twenty-six shall be entered the designation of the court issuing any such naturalization certificate. In columns twenty-seven, twenty-eight, twenty-nine and thirty shall be entered, respectively, the name of the state, the city or town and the street number and the name of the street or avenue of the residence of such voter from which he last registered or voted, and the year in which he last registered or voted. In column thirty-one shall be entered the number of the room or floor occupied by the voter at the residence stated by him. In the final, or "registration remarks" column, shall be entered the matter specified for such column in subdivision one of this section. If, in a district where such register is used, all of the voters are not required to register personally, the information to be entered concerning voters whose registration is not personal shall consist only of the matters provided for within the first seventeen columns, described in subdivision one of this section, and the "registration remarks" column.

3. In an election district within a city of over fifteen thousand inhabitants and not over one million inhabitants, the register shall have the columns described in subdivision two of this section and also the following additional columns to follow thirty-one, for the following purposes, to be used for entries on each day of registration: In column thirty-two shall be entered the full name of the householder, tenant, subtenant or apartment lessee with whom the voter resides. In column thirty-three shall be entered, if the voter is in business for himself or with others, the name under which he is so in business, or if the voter is employed by some other person, the name of his present employer. If he is not in business and has no employment, the word "none" shall be entered, together with the name under which he was last in business or the name of his last employer, if any. In column thirty-four shall be entered the street and number, or if he has no street number, a brief description of the location of the place, if any, where he is so in business or employed, or, if unemployed, the place, if any, where he was last in business or employed. The information required to be stated in columns thirty-three and thirty-four shall be asked only in the event that the person offering to register shall not have registered for the general election immediately preceding in the same county. Column thirty-five shall be used for the signatures or numbers of identification statements of voters during registration in one copy only of the register. Above each horizontal line in such column shall be printed the words "the foregoing statements are true." The voter, at the time of registration in any such city of over fifteen thousand inhabitants, unless he alleges his inability to write, shall sign his name by his own hand, using an indelible pencil or ink, below such words in such column. The copy used for such signatures at the registration shall be a register other than the public copy, shall be kept by an inspector of opposite political faith from the chairman and shall be known as the "registration signature copy." The register in such a city also shall have the final "registration remarks" column, for the entry therein of the matters specified in subdivision one of this section.

§ 166. **Test or proof of literacy.** 1. There shall be in the place of registration, where registration is required to be personal, one hundred extracts from the constitution of this state, of approximately fifty words each, which extracts shall be selected by the secretary of state. Such extracts shall be printed in English on uniform paste-board slips in double small pica type, and the slips shall be kept by the inspectors in a box so constructed as to conceal the slips from view. The new voter, if required to prove his ability to read and write English, shall draw out at random one of such slips and read aloud intelligibly all of the matter printed thereon and shall then write legibly in English ten words of the matter on such slip, to be selected by an inspector. Each slip shall be returned to the box immediately after each test and the contents of the box shall be shaken up by an inspector before another drawing.

Source.—
New.

2. A new voter may present to the board of inspectors a certificate of literacy signed by the principal or other head of a public school in the city or town in which the voter applies to be registered, or of any school in such city or town whose course of instruction has been or shall be recognized by the state department of education as being of required standard, to the effect that such principal or head has examined the voter, or his educational credentials, and certifies that the voter is able to read and write English, and that the signature of the voter appended to such certificate was made in the presence of such principal or other head, to which certificate of literacy shall be appended the affidavit of the person signing such certificate that at the time of such examination and the signing of such certificate he was the principal or head, as the case may be, of such school. Thereupon, if the board finds that the voter's signature appended to such certificate of literacy corresponds with his signature, which shall be made by him in the presence of the board, that such voter is the person named in the certificate and that the certificate is genuine, the voter shall not, unless an inspector shall so demand, be required to take the test specified in the foregoing subdivision. The board of regents of the university of the state of New York may adopt and enforce rules governing the issuance, and further authentication, of such certificates of literacy and the preparation or examination of applicants therefor.

Source.—
Former
election
law, § 164.

§ 167. **Illiterate and disabled voters.** If, at any meeting for the registration of voters, any person, other than a new voter, entitled to be registered shall appear personally for registration and shall declare to the board of inspectors that he is unable to write by reason of illiteracy, and any person entitled to be registered who shall so appear and shall declare that he will be unable to prepare his ballot without assistance by reason of blindness, or of such a degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, loss of both hands, or such total inability of both hands that he cannot use either hand for ordinary purposes, or that he will be unable to enter the voting booth without assistance by reason of disease or crippled condition, the nature of which he must specify, the board of inspectors shall administer an oath to such person in the following language namely: "You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because," and after the word "because," continuing with a statement of such inability to write by reason of illiteracy or of the specific disease or crippled condition assigned by the person as the cause of his alleged disability. Unless the register entries shall show that such person is not a new voter, the following words shall be added to such oath, if the claim for assistance be based on illiteracy: "and that you became entitled to vote within this state on or before January first, nineteen hundred and twenty-two." Each inspector shall make a note upon his register, in the registration remarks column, of each instance in which such oath is administered, and of the

reason so assigned. If illiteracy be the reason so assigned, each inspector also shall enter the words "not a new voter."

§ 168. **Production of naturalization papers.** A naturalized citizen, or a citizen by marriage to a naturalized citizen, before being registered, shall produce to the inspectors for their inspection, if any inspector shall require, the naturalization papers upon which his or her citizenship depends, or a certified copy thereof and shall make oath that he is the person purporting to have been naturalized by the papers so produced, or that she is the wife or widow of such person so naturalized, unless such naturalized citizen was naturalized previous to the year eighteen hundred and sixty-seven. If, however, such naturalization papers, or a certified copy thereof, cannot be produced, the board of inspectors may register the applicant upon satisfactory proof of his or her right to be registered.

Source.—
Former
election
law, § 174.

§ 169. **Challenging applicants for registration.** 1. Any person who applies personally to any board of inspectors for registration for any election may be challenged by any qualified voter or watcher present, and shall be challenged by any inspector if such inspector shall have reason to suspect that the applicant is not entitled to be registered or his name is on the challenge list and the board shall not know he is a qualified voter.

Source.—
Former
election
law,
§§ 169, 172.

2. When an applicant is so challenged the chairman or any inspector shall administer to such applicant the following oath: "You do solemnly swear (or affirm) that you will true answers make to the questions touching upon your qualifications as a voter and such other questions as may be put to you tending to establish your identity," and an inspector shall then read to such challenged person each question printed upon the form of the challenge affidavit and shall enter in ink or indelible pencil opposite each question the answer thereto given by such applicant. The applicant shall sign his name to such challenge affidavit. The inspector who writes the answers shall enter in the place provided on the challenge affidavit a description of the person challenged and the name and address of the person challenging and shall sign the certificate at the end thereof, and the other inspectors present shall also sign such certificate. Unless the duplicate challenge affidavit of the same number is in the same book, following the original so made, and is produced at the same time by the use of carbon or similar paper, the blank duplicate affidavit of the same number shall be filled out by another inspector and shall be signed by the same persons, so that both affidavits shall be duplicates of each other.

3. If the applicant shall by his answers satisfy a majority of the board of inspectors of his right to be registered, they shall register his name as a voter; if not, they shall point out to him the qualifications which he lacks as a voter and shall not register his name except by order of a court or judge of competent jurisdiction. If the applicant shall refuse to make such oath or to answer any question upon the challenge affidavit the inspectors shall not register his name, and if, previously to his ascertained

qualification as a voter, the inspectors have written his name upon the register, they shall enter in the registration remarks column opposite such name the word "disqualified" and no person shall be allowed to vote on such name at the election. When the name of a person who has signed a challenge affidavit shall be registered, the inspectors shall enter in such remarks column opposite such name the word "affidavit," giving the consecutive number printed on such affidavit.

4. If, at any meeting of the board for registration, any voter shall declare, upon oath, that he has reason to believe that any person whose name is on the register will not be qualified to vote at the election for which the registration is made, the board shall place the words "to be challenged on election day" opposite the name of such person.

Source.—
Former
election
law, § 167,
in part;
§ 168.

§ 170. **Challenge affidavits.** There shall be in each place of registration a book containing the original challenge affidavits required to be provided for the election district, together with an equal number of duplicates, bound in the same or a separate book. Each original affidavit shall have a stub, separated therefrom by a perforated line. The stub and affidavit shall bear the same printed number, beginning with number one. Each original challenge affidavit and duplicate shall be printed in the following form, except that the stub and perforated line shall be omitted from the duplicate:

(Stub)

" Name of applicant.....

Address

(Perforated line)

CHALLENGE AFFIDAVIT

State of New York }
County of } ss.:

Election District

Assembly District (or Ward)

City (or town) of.....

What is your true name?.....

Where do you actually reside?.....

Under what name are you known at that address?.....

Are you a householder?.....

What is the name of the householder with whom you reside?
.....

What is the character of the house in which you reside? (By
character is meant whether it is a hotel, lodging house, tene-
ment, furnished room house or private dwelling.).....

How old are you?.....

Where were you born?.....

If naturalized, give name of court issuing and date of certificate.
.....

- If a citizen by marriage to a naturalized citizen, give name of court issuing and date of husband's certificate.....
-
- If a citizen by marriage, when were you married and to whom?
-
- If a citizen by marriage, how long have you been an inhabitant of the United States?.....
- What is your occupation?.....
- What is the name of your present employer?.....
- Where is his place of business?.....
- What is the name of your last employer?.....
- Where is or was the place of business?.....
- When did you last register or vote?.....
- From what address did you last register or vote?.....
- City or town.....street and number.....
- How long have you been an inhabitant of this state?.....
- How long have you been a resident of this county?.....
- How long have you been a resident of this election district?
-
- Are you married or single?.....
- If married, where does your family reside?.....
- If single, where do your parents reside?.....
- How long do you contemplate residing in this election district?
-
- Give place or places by street and number, the city, town or village of your residence or residences during the past four months?.....
- Where did you actually reside immediately prior to taking up your present residence?.....
- Have you been convicted of felony?.....
- If so, have you been pardoned and restored to all the rights of citizenship?.....
- When?.....By whom?.....
- Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election?.....
- Have you received or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for registering or for giving your vote or refraining from voting at the next election?.....
- Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at the next ensuing election?
-
- I, the undersigned, do hereby solemnly swear (or affirm) that the answers to the above questions were given by me and that they are true answers to such questions.
- (Signature of applicant)

Description of applicant.

Height.....Color of hair.....
 Weight.....Hair on face.....
 Color.....Kind of nose.....
 Marks on face or hands.....
 Distinguishing marks.....

I, the undersigned, an inspector of election of the above designated election district, do hereby certify that the within named person did on this day personally appear before the board of inspectors of this election district and did make application to have his name enrolled upon the register of voters of this election district; that he was challenged and was sworn by me and did make the answers set opposite the printed questions upon this affidavit and signed the same in my presence.

Dated this.....day of October, 19....

Name Residence
 Inspector of election.....

(To be signed by the inspector administering oath to applicant.)

Witnesses:

Name.....Residence.....Inspector of Election.
 Name.....Residence.....Inspector of Election.
 Name.....Residence.....Inspector of Election.

(Board of inspectors.)

Name of challenger.....
 Residence of challenger....."

Source.—
 Former
 election
 law,
 §§ 4, 10.

§ 171. **Enrollment by voters.** At any regular meeting for registration, after a voter shall have been registered, or where his registration was not required to be personal and he was registered without personal application he shall present himself to the board for enrollment only, the board shall deliver to him an enrollment blank which shall have filled in upon it his name, the particulars required in the other spaces on the blank, and an enrollment number, beginning with number one for the first voter enrolled on the first day and so on in numerical order, and the inspectors shall enter such number in the appropriate column of two registers, one of which shall be the registration signature copy if any. No voter shall be given more than two enrollment blanks, nor more than one blank unless he shall improperly mark or otherwise spoil the first blank given him. In case a second blank is given, the inspectors shall draw a line through such voter's previous enrollment number on the registers and insert in the same column, opposite the name of the voter, the number of the new blank. The voter then shall enter a voting booth, and, the door thereof being closed, may make with a pencil having black lead a cross X mark, being one mark crossing any other mark at any angle, within the circle underneath the emblem of the party of his selection. He shall thereupon fold the blank so

as to conceal the face thereof, or, in a city in which enrollment envelopes are required to be provided, he shall inclose such blank, without folding, in the enrollment envelope and seal the envelope. Before leaving the place of registration, deposit it so folded, or inclosed, in the enrollment box without in any way indicating the party with which he has or has not enrolled. If a voter declines to enroll, he may return the blank unmarked and the inspectors shall enter in such registers opposite his name in the column reserved for the name of a political party, the word "No."

In an election district where registration is not required to be personal a registered voter who did not appear personally for registration or enrollment as above provided, may enroll on the day of the ensuing general election, as provided in this section and in section two hundred and nine. In such an election district absentee voters may enroll as provided in section one hundred and twenty-two.

§ 172. **Enrollment blanks.** The enrollment blanks to be provided as required by this chapter shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks except blanks for emergencies to be filled in in type so far as possible:

Source.—
Former
election
law, § 7.

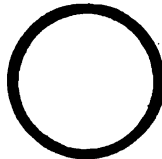
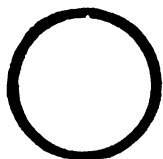
" Primary enrollment for the year.....city
(or village or town) of.....county of
.....assembly district
(or ward or town).....election district.
Enrollment No..... Name of voter.....

" I,....., do solemnly declare
that I am a qualified voter of the election district in which I
have been registered, and that my resident address is.....
.....(the resident address of the voter
as it appears in the register, is to be here inserted); that I am
in general sympathy with the principles of the party which I
have designated by my mark hereunder; and that it is my inten-
tion to support generally at the next general election, state or
national, the nominees of such party for state or national offices.

.....party. party.

(Insert emblem.)

(Insert emblem.)



" Make a cross X mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year. Then fold the blank so as to conceal its face and deposit it in the enrollment box."

The circles underneath the emblem shall be three-quarters of an inch in diameter, and in them nothing shall be printed. The party emblems shall be the same as those which were on the ballots for each party respectively at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding general election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for governor at such election; and over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem.

The enrollment envelopes required to be provided in the city of New York shall be of such size as to permit inclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible:

"Primary enrollment for year City of New York; county of assembly district..... election district."

Source.—
Former
election
law, § 294.

§ 173. **Delivery of copies of proposed constitutional amendments, propositions or questions.** The inspectors shall distribute to the voters applying for registration copies of the proposed amendments to the constitution or other propositions or questions to be submitted to the voters of the state at the following election.

Source.—
Former
election
law, § 152.

§ 174. **Change of registry where voter registered in wrong district.** If any voter has, through no fault of his own, been registered in a wrong election district, the board of elections, upon proper proof, and upon such notice to the chairman of the county committees of the several parties as the board shall prescribe, may direct that his name be stricken from the register of the district in which he is not a qualified voter, and, if he is a qualified voter in an adjoining election district within the jurisdiction of such board, may direct that he be registered in the election district in which he is a qualified voter. The proper inspectors of elections shall carry out the directions of the board. In a county having a single commissioner of elections or in which the county clerk is the board of elections such officer shall not have power to make any such direction, but in any such county, such direction may be made by the supreme court, county court or a justice or judge thereof, upon proper proof. The application under this section must be made at least twelve days prior to the election.

Source.—
Former
election
law, § 166.

§ 175. **Correction of register in case of change of residence of voter within election district.** If any voter after being registered shall change his place of residence within the same election district, he may appear before the board of inspectors of such district on any day of registration, or on the day of election, and state under oath that he has so changed his residence,

and the board shall thereupon make the proper correction upon the register of such district.

§ 176. Card lists of registered voters in cities of the first and second class. The board of inspectors of each election district in cities of the first and second class shall on each day of registration copy upon a separate card the name of each person registered in the election district and all of the information given by such person at the time of registration. At the close of each day of registration the board shall deliver to a police officer at the place of registration or the stationhouse of the police precinct such cards, enclosed in a sealed wrapper which shall have endorsed thereon a certificate that the cards so delivered contain a correct copy of all the names registered and information given by all the persons registered during the day. Such officer shall deliver such package forthwith to the captain of the police precinct. If previously directed by the attorney general, such captain shall deliver the package containing the cards for any district to a special deputy attorney general, designated by the attorney general to receive it.

Source.—
Former
election
law, § 485.

§ 177. Daily certification of register; certificate to board of elections. At the close of each meeting for the registration of voters, the inspectors shall draw a line in ink immediately below the name of the voter last entered upon each page of such register and shall sign a certificate printed in the registers to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of all voters qualified to vote at such election in such district who have personally applied for registration, and, in a district elsewhere than in a city or village having five thousand inhabitants or more, also of voters whose names the board was required by law to place thereon. At the close of each such meeting the inspectors also shall sign and mail to the board of elections a certificate stating the total number of voters registered on such day in the district and the total number then registered therein, except that in any city of the first or second class having therein the office of the board of elections the inspectors shall deliver such certificate to the police at the place of registration or the police precinct station-house who shall deliver it forthwith to the board of elections, at its office or the proper branch office.

Source.—
Former
election
law,
§§ 176, 177,
subd. 2,
§ 181.

§ 178. Investigation into truth of challenge affidavits; custody of duplicates. At the close of each day of registration, the inspectors shall detach from the stubs the original challenge affidavits signed by the persons challenged during the day, and in cities shall deliver them to the police captain of the precinct in which the election district is located, or to an officer thereof, and in districts outside of cities, to the sheriff. Such police captain or sheriff immediately shall cause an investigation of the truth of such affidavits to be made. If such investigation shall prove an affidavit to be false in any particular affecting the right of the challenged person to register or vote, the officer shall deliver it, together with the evidence of falsity, to the district attorney of the county and the district attorney forthwith shall present the

Source.—
Former
election
law,
§§ 170, 171.

matter to the grand jury. If the affidavit is not delivered to the district attorney the officer forthwith shall transmit it, with his report in writing with regard thereto, to the board of elections. Copies of all such challenge affidavits shall be mailed by the police or sheriff, at the close of each day of registration, to the attorney general.

From the close of the first day of registration until the election, except during hours of registration, the book containing any duplicate challenge affidavits shall be in the custody of the inspector in charge of the registration signature copy of the register, or, in districts where there is no such copy, of the chairman of the board of inspectors, and on each day of registration or of the election such book shall be in the place of registration or polling place.

Source.—
Former
election
law,
§§ 12, 177,
subd. 4,
§ 181.

§ 179. **Completion and certification of registers, at close of registration; certificate to board of elections.** At the close of the last meeting for registration in each year the inspectors shall enter the registration number of each voter in the first column of the register beginning with "one" opposite the first name entered on the page indexed "A" and continuing in numerical order to and including the last name entered upon the last page of the register. They shall then sign a certificate, printed in the registers, to the effect that such register is a true and correct register of the persons registered by them in such district on the days of registration; that, in districts where personal registration was required, the persons shown by such registers are the only persons who registered personally as voters, or that, in districts where personal registration was not required, the persons having enrollment numbers on any such registers are the only registered voters who appeared personally for registration or enrollment; and that each voter who appeared personally was given or tendered an enrollment blank. Such certificate shall set forth the number of the last enrollment blank used on such last day of registration.

Source.—
Former
election
law, § 187.

§ 180. **Preparation of registry lists.** The board of inspectors of each election district in a city of the first or second class shall, immediately after the close of the last day of registration, make and complete one list of all persons registered in their respective districts, in the numerical order of the street numbers thereof, which list shall be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police at the polling place or at the precinct station-house, who shall forthwith deliver it to the board of elections. Such lists shall be made as near as may be in the following form, to wit:

GRAND STREET.

Residence number or
other designation.

Name of voter

14.....	Smith, John M.
15.....	Jones, Charles M.

§ 181. **Custody of registers, boxes and flag.** 1. The register of voters made by the chairman of the board of inspectors shall be known as the public copy. Such public copy shall be left in a prominent position in the place of registration from the first day of registration until election day. When the place of registration is in a schoolhouse, or other public building, such public copy shall be left in the custody of the janitor or some other person in charge of the building, who shall be responsible therefor, and a notice shall be kept publicly posted stating how inspection thereof is to be obtained. When in a city there is no responsible person at a place of registration with whom such copy can be left it shall be placed in the custody of the nearest police precinct station, and a notice stating that the public copy is on file at the police station, specifying the number and location of such station, shall be posted.

Source.—
Former
election
law, § 177,
subds. 1, 2,
§ 178,
subds. 1, 4.

2. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take from an inspector of opposite political faith from himself the register, other than the registration signature copy, made by such inspector and deliver it to the police at the place of registration or at the police precinct station-house, who forthwith shall file the same with the board of elections.

3. Except as above provided each inspector shall carefully preserve his register and shall produce it for use upon election day.

4. The public copy of the register shall at all reasonable hours be accessible for public examination and making copies thereof.

5. The chairman shall have the custody of and be responsible for the enrollment box, the box containing slips for literacy tests and the flag until these are delivered to the proper authorities as provided in this chapter.

§ 182. **Return of boxes and flag, in election districts where registration is required to be personal.** In cities of the first class, the enrollment box, properly sealed, the box containing slips for literacy tests, and the flag, shall be delivered by the inspectors at the close of the last day of registration to the police at the place of registration, or at the precinct station-house, and the police shall deliver them to the board of elections, or hold them subject to the order of such board. In other election districts where registration of all the voters is required to be personal the chairman shall deliver them, within twenty-four hours, to the board of elections.

Source.—
Former
election
law, § 14.

§ 183. **Opening of enrollment box and completion of enrollment.** All enrollment blanks contained in the enrollment box shall remain in such box, and the box shall not be opened nor shall any of the blanks be removed therefrom until the Tuesday following the day of general election in that year. Such box shall then be opened by the board of elections and the blanks contained therein shall be removed therefrom by the board, and the names of the party designated by each voter under such declaration shall be entered by the board, opposite the name of such voter in the appropriate column of the two copies of the

Source.—
Former
election
law, §§ 14, 18.

register containing enrollment numbers for the election district in which such voter resides. If cross marks are found in more than one of the circles or if no cross marks are found in any of the circles, of any enrollment blank, the voter who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered opposite the name of such voter in such copies of the register in the column reserved for the entry of party enrollments. When all of the enrollments shall be transcribed from the blanks to the register, the board of elections shall make a certificate upon the form printed in such registers, to the effect that it has correctly and properly transcribed the enrollment indicated on the blank of each voter to such registers. Such enrollment shall be complete before the succeeding first day of February in each year.

Source.—
Former
election
law, §§ 14a,
14b, 15a,
19a.

§ 184. Application for special enrollment, transfer or correction of enrollment. 1. A voter also may enroll with a party after the first day of February in any year and before the thirtieth day preceding the next fall primary, except during the thirty days preceding a spring primary, if he did not enroll on a day of the annual enrollment, for the reason that he became of age after the preceding general election, or that he was naturalized subsequent to ninety days prior to the preceding general election, or that, because of being in the actual military service of the state or of the United States, in the army or navy thereof, or at a service in connection therewith, the nature and times of which military or similar service shall be stated, he was absent from his election district at all of the times designated for the preceding annual enrollment; and a voter also may enroll with a party before the first day of March in any year, if he did not enroll on a day of the annual enrollment, for the reason, if his registration was required to be personal, that he was incapacitated by illness, the nature and times of which shall be stated, from registering for the preceding general election, or that, if his registration was not required to be personal, he was incapacitated by illness, the nature and times of which shall be stated, from voting at the preceding general election. A voter desiring so to enroll shall file, within the times above specified, with the board of elections of the county in which he resides, his affidavit setting forth substantially as follows: the county and the city or town in which he resides, the election district and the street and number, if any, of such residence; a statement that he is or will be a qualified voter of such election district at the next general election; the name of the party with which he desires to enroll and a statement that he is in general sympathy with its principles and intends to support generally its nominees at such election; a statement that he was not enrolled upon any day of the preceding annual enrollment and the reason therefor, which shall be one of those set forth above. If the voter apply for enrollment because he became naturalized subsequent to ninety days prior to the preceding general election, the naturalization papers or a

certified copy thereof also shall be submitted to the board for inspection and the affidavit shall contain the further statement that the deponent is the person named in the papers so submitted.

2. If, after being enrolled in an election district as a member of a party on a day of annual enrollment, a voter shall move into another election district of the same county, he may have his enrollment transferred to such district, after the first day of February and preceding the next fall primary, except during the thirty days preceding a spring primary, as a member of the same party, in the manner hereinafter specified. He shall file with the board of elections, within the times above stated, his affidavit showing the name of the party with which and the town or city and election district in which he is enrolled, the street address if any from which he was enrolled, the town or city and election district thereof into which he has moved and the street address if any of his residence therein, and stating that he resides in the last mentioned election district and desires to have his enrollment with such party transferred thereto. In a city or village in which registration is required to be personal, the voter must appear and file his affidavit in person and also answer such questions affecting his identity as the board may deem necessary. In such a case, the board shall compare the voter's signature, if any, on the affidavit, with his signature on the register, or, if he be unable to write, shall submit to him the questions required for an identification statement on a day of registration, and in the city of New York shall have his answers written down in the book for identification statements for the election district of his new residence. In the city of New York, the voter, if able to write, shall sign his name in the appropriate column of the signature copy of the register for the district to which he has moved. In any case not above provided for, the board, in its discretion, may require a voter applying for such transfer to appear in person and answer questions affecting his identity. Such transfer of the enrollment of any voter in any year shall be made but once in such year.

3. After the first day of February and before the ensuing first day of July in any year, except during the thirty days preceding a spring primary, a voter who has enrolled with a party for the period hereinafter mentioned may apply for the correction of a mistake made by him as to name of the party when marking his enrollment blank on a day of the preceding annual enrollment, by filing, within the times above stated, with the board of elections of the county in which he resides, his affidavit setting forth substantially as follows: the county and city or town in which he resides, the election district and the street and number, if any, of such residence; a statement, in substance, that on a day of the preceding annual enrollment in such election district he marked the enrollment blank in a circle under the name and emblem of a party but that such marking was done by mistake and that he did not intend to enroll with that party; the name of the party with which he did intend to enroll and which he desires

to be substituted on the register for the one opposite his name; a statement that he has been duly and regularly enrolled with the party whose name he desires substituted for at least five years preceding the enrollment at which such mistake occurred, specifying the county or counties where he was so enrolled; that he is in general sympathy with the principles of such party and intends to support generally its nominees at the next general election, and that he has not participated in any primary election or convention of any other party during such period of five years, or since. If, for any year of such period, the registers or enrollment books in the office of such board do not show the applicant to have been enrolled therein, the board shall require him to produce a certified transcript of his enrollment with such party elsewhere within the state, in such year, accompanied with proof, by affidavit, showing his identity with the person whose name appears in such transcript.

4. Except where the voter is expressly required to file his affidavit in person, it may be filed either in person or by agent or sent by mail. Mailing within the state and within the times above prescribed for filing shall be sufficient, if the affidavit be received by the board. The postmark shall be sufficient proof of the date of mailing. If mailed without the state, it must be received by the board within the times above prescribed. The board shall prepare forms for the various affidavits and, upon application, furnish a copy of the appropriate form to or for any voter desiring to use the same, and an additional copy if required. Copies also may be sold by the board, at cost, to any qualified voter.

Source.—
Former
election
law, §§ 14a,
14b, 15a,
19a.

§ 185. Duties of board of elections in respect of special enrollments, transfers and corrections. 1. The board of elections shall enroll in two registers of the proper election district a voter who duly mails or causes to be filed the affidavit prescribed by subdivision one of the preceding section, except it be proven to its satisfaction that a material statement in the affidavit is untrue, and except that where a voter applies on the ground of having become naturalized subsequent to ninety days prior to the preceding general election, it shall first satisfy itself of the fact of such naturalization and of the identity of the applicant. If so enrolled, the voter's name, residence, by street and number, if any, and his party affiliation shall be entered in the proper columns, the word "special" and the date of the filing and mailing of his affidavit shall be written above his name, and his affidavit shall be attached to a copy of the register, which shall be the registration signature copy if any.

2. The board shall transfer to the proper election district the enrollment of a voter who duly mails or causes to be filed, or files in person if that be required, an affidavit therefor pursuant to subdivision two of the preceding section, except that where additional requirements are therein prescribed, such transfer shall be made only after compliance therewith by the voter. Where such voter is required by or pursuant to such subdivision to

appear in person, the board shall not transfer his enrollment unless satisfied of his identity. If the transfer be made, a line, in ink, shall be drawn through all entries relating to the voter in the registers of his former district, and in the last column thereof shall be specified the election district and locality to which he has moved, preceded by the words "enrolled in." The following entries shall be made in two registers of the district to which he has moved: his name, present residence, by street and number if any, and party affiliation: and his affidavit shall be attached to a copy of the register, which shall be the registration signature copy if any. In the city of New York there also shall be added, in the proper columns, the other information concerning the voter, to be elicited from him, which would be required by inspectors if he were then registering for an election. In any county, or city, in case of such transfer, the election district and locality from which the voter has moved shall be specified in the last column, preceded by the words "enrolled from."

3. The board shall correct, as to the party name, the enrollment of a voter who duly mails or causes to be filed an affidavit therefor pursuant to subdivision three of the preceding section, if the records of the board and transcripts if any of enrollments elsewhere support his affidavit and if the board be satisfied as to his identity. The word "corrected" and the date of the mailing or filing of his affidavit shall be entered in the last column of the registers, and his affidavit shall be attached to a copy of such register, which shall be the registration signature copy if any.

ARTICLE 8.

CONDUCT OF ELECTIONS.

Section 190. Application of article.

191. Dates of primary elections and general elections; time of opening and closing polls.
192. Conduct of primary elections by inspectors only.
193. Supplying vacancies or absences of inspectors or clerks.
194. Opening the polls; preparations therefor.
195. General provisions as to conduct of elections.
196. Watchers and challengers.
197. Location of boxes and ballots; persons within the guard-rail.
198. Unofficial ballots; adhesive pasters.
199. Disposal of defective, mutilated or spoiled ballots.
200. Time allowed employees to vote.
201. Use of registers, generally; poll-books in certain cases.
202. Proof of identity of voters in cities of over fifteen thousand inhabitants.
203. Assistance to illiterate or disabled voters.
204. Challenges at primary elections.
205. Challenges at elections other than a primary election.

- Section 206. Ascertaining party voters, if, by accident, enrollment not shown by register.
207. Delivery of ballot to voter.
208. Manner of voting.
209. Delivery of enrollment blank to voter at general election, if registration was not personal.
210. Casting of absentee voters' ballots; objections.
211. Preparation of ballot returns; sealing of unused, cancelled and spoiled ballots.
212. Proceedings of inspectors at close of polls.
213. General provisions as to canvass.
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215. Verifying number of ballots.
216. Method of canvassing.
217. Method of tallying votes except for presidential electors.
218. Methods of tallying votes for presidential electors.
219. Rules for counting votes.
220. Objections to the counting.
221. Statement of canvass to be delivered to police in a city.
222. Return of canvass.†
223. Proclamation of result.
224. Certification of registers as to enrollment occurring at the general election.†
225. Returns of canvass in city of New York for certain offices voted for within and without such city.
226. Sealing of ballots after canvass.
227. Disposal of ballot and enrollment boxes, unused ballots and certain other articles.
228. Filing of registers, returns and other papers, except in the city of New York.
229. Filing of registers, returns and other papers in the city of New York.

Source.—
New.

§ 190. **Application of article.** This article applies to a general election; a special election called by the governor; so far as practicable, any election at which official ballots are used if other provision for the conduct thereof is not made by law. Where a voting machine is used, only the provisions shall apply which are consistent with the use of such a machine and the provisions of the next article. Subject to the special provisions and exceptions relating to primaries, a primary shall be deemed an election for the purposes of this article.

Source.—
§ 70,
subd. 5,
§ 270.

§ 191. **Dates of primary elections and general elections; time of opening and closing polls.** 1. A primary election, to be known as the fall primary, shall be held annually on the seventh Tuesday before the general election. In each year in which electors of president and vice-president of the United States are to be elected an additional primary election, to be known as the spring primary,

* So in original. [No section 214.]

† So in original. [Does not conform to section heading.]

shall be held on the first Tuesday in April. The general election shall be held annually on the Tuesday next succeeding the first Monday in November.

2. Elections shall be held open for voting thereat during the following hours: a primary election from twelve o'clock noon until nine o'clock in the evening, except in the city of New York, and in such city from three o'clock in the afternoon until nine o'clock in the evening; the general election, a special election called by the governor pursuant to the public officers law, and, except as otherwise provided by law, every other election, from six o'clock in the morning until six o'clock in the afternoon.

§ 192. **Conduct of primary elections by inspectors only.** The spring and fall primaries shall be conducted in the several election districts by the inspectors of election only, and without the clerks if any. Source.—Former election law, § 70, subd. 6.

§ 193. **Supplying vacancies or absences of inspectors or clerks.** Source.—Former election law, § 812.
1. If, at the time of a meeting of the inspectors upon the day of election, there shall be a vacancy, or if any inspector shall be absent, the inspector present who is a member of the same party as the absent inspector shall appoint a qualified voter of the district who is a member of the same party to act in place of the absent inspector for the whole of that day.

2. If at the time of any such meeting two inspectors who are members of the same party shall be absent, or their places shall be vacant, the clerk, if any, of the same party shall appoint qualified voters of the district, who are members of the same party as the absent inspectors, to act in place of such absent inspectors for the whole of that day.

3. If at the time of any such meeting two inspectors and the clerk, if any, who are members of the same party shall be absent, or their places shall be vacant, the inspector or inspectors present, or in their absence the clerk, if any, shall appoint qualified voters of the district, who are members of the same party as such absent inspectors, to act until such absent inspectors, or their successors, duly appointed by the original appointing authority, shall appear.

4. If at any such meeting there shall be vacancies in all the offices of inspectors or clerks, or if no inspector or clerk shall appear within one hour after the time fixed by law for the opening of the polls, the qualified voters of the district present, not less than ten, may name four qualified voters of the district, equally divided between the two parties entitled to representation, to act until such absent inspectors or their successors, duly appointed by the original appointing authority, shall appear.

5. If at the time of any such meeting there shall be a vacancy in the office of clerk or if a clerk shall be absent, the inspectors who are members of the same party shall appoint a qualified voter of the district who is a member of the same party to act in place of the absent clerk for the whole of that day.

6. Every person so appointed or named shall take the oath of office. A person appointed or named for temporary service shall

receive no pay unless he shall serve for the whole or the remainder of the day.

Source.—
Former
election
law, § 350.

§ 194. **Opening the polls; preparations therefor.** The inspectors of election, and clerks, if any, shall meet at the polling place at least one-half hour before the time set for opening the polls of the election. The inspectors of election shall

1. See that the American flag is displayed.
2. Cause the instruction cards, if any, to be posted conspicuously within the polling place.
3. Cause the sample ballots which are mounted on cards, if any, to be posted conspicuously in the polling place.
4. Cause the distance markers to be placed at a distance of one hundred feet from the polling place.
5. Arrange within the guard rail the ballot boxes and furniture for the conduct of the election.
6. Open the packages of ballots and sample ballots and place the registers, books, ballots and sample ballots, blanks, stationery and supplies so that they will be ready and convenient for use.
7. Before any ballots are cast, see that the voting booths are supplied with pencils having black lead only.
8. Before any ballots are cast, unlock the ballot boxes, see that they are empty, allow them to be examined by the watchers present, and lock them up again empty in such manner that the watchers and the persons just outside the guard rail may see that the boxes are empty when re-locked.

9. At the opening of the polls, cause to be made a proclamation thereof and of the time when the polls will close.

Source.—
Former
election
law, §§ 79,
84, 314, 322,
315, 352.

§ 195. **General provisions as to conduct of elections.** 1. The chairman of the board of inspectors theretofore appointed shall continue to act as such, and the inspectors shall act as a board, and a majority thereof shall decide questions. One inspector shall receive the ballots from voters voting. If, at any polling place, the election is conducted by inspectors only, one inspector shall deliver ballots to voters, and the inspector who receives the ballots from voters shall be of opposite political faith. Two inspectors who are not of the same political faith and who are not assigned to any of the foregoing duties shall have charge of the registers, subject to inspection thereof by any inspector and his participation in the decision of any question. Of the inspectors in charge of the registers, one shall be assigned to the duty of comparing the signatures of voters, when that is necessary. Inspectors shall be assigned to the foregoing duties by the board of inspectors, before the opening of the polls. Such assignments shall be by lot if a majority cannot agree. The duties of an inspector may be changed by the board during the day. If there be clerks as a separate office, the board of inspectors may direct a clerk, who is not otherwise engaged, to perform any duty of an inspector, except to vote upon a question to be decided by such board; provided, however, that when a duty is required to be performed by two inspectors who are not of the same political faith, such duty shall not be performed by

an inspector and clerk of the same political faith. Where an oath is required or permitted by this article at any election, any inspector or canvassing inspector may administer it.

2. The American flag, furnished by the board of elections, shall be kept displayed at each polling place throughout the election. Instruction cards, distance markers and the mounted sample ballots shall not be taken down, torn or defaced during the election. There shall be no smoking in any polling place in a church or school. While the polls are open no person shall do any electioneering within the polling place, or within one hundred feet therefrom in any public street, or within such distance in any place in a public manner; and no political banner, poster or placard shall be allowed in or upon the polling place during the election.

3. Upon application, the inspectors shall give one sample ballot of each kind to any voter entitled to vote the ballot of which he requests a sample, and he may take it away from the polling place.

4. The provisions of section one hundred and sixty, concerning the preservation of order and apprehension for crime on a day of registration, shall apply to a day of election, but a person taken into custody shall not be prohibited thereby from voting.

5. After a ballot box shall have been locked for the purposes of election, it shall not be opened until it is opened at the close of the polls for purposes of canvass. Each inspector shall be responsible personally for the custody of each ballot box and its contents from the time the election begins until the box is delivered, according to law, to the person entitled to receive it.

§ 196. **Watchers and challengers.** 1. At any general; special, town or village election, any party or independent body may have at any polling place at which candidates nominated by it are voted for, not more than two watchers, to be appointed by the county, assembly district, city, town or village committee of the party or body.

2. At any primary election, any political committee may have a watcher, and any two or more candidates whose names are upon any ballot to be voted at the polling place may have a watcher.

3. The appointment of a watcher or watchers for any election, including a primary, shall be by a certificate in writing signed by such candidates or such committee, as the case may be, or by the chairman or secretary of the committee who is charged with that duty, which certificate shall be delivered to an inspector. A committee shall not appoint a watcher for a polling place outside the political subdivision for which the committee was constituted.

4. The watchers may be present at the polling place and within the guard-rail from at least fifteen minutes before the unlocking and examination of any ballot box, at the opening of the polls, until after the announcement of the result of the canvass and the signing of the inspectors' returns thereof; provided, however, that with respect to an election other than a primary election not more

Source.—
Former
election
law,
§§ 24, 252.

than one watcher for each party or for each independent body may be at one time within the guard-rail until after the closing of the polls.

5. A reasonable number of challengers, at least one person for each such party or independent body, at an election other than a primary election, and at a primary election at least one for any three or more persons of each party whose names are on the party ballot, shall be permitted to remain just outside of the guard-rail of each such polling place, where they can see what is done within such guard-rail, outside of the voting booths, from the opening to the close of the polls.

6. Each watcher and challenger must be a qualified voter of the city or county in which he is to serve.

Source.—
Former
election
law, § 351,
§ 317, in
part.

§ 197. **Location of boxes and ballots; persons within the guard-rail.** The boxes and all official ballots shall be kept within the guard-rail, and at least six feet therefrom, from the opening of the polls until the announcement of the result of the canvass and the signing of the inspectors' returns thereof. No person shall be admitted within the guard-rail during such period except the election officers, authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, and voters duly admitted for the purpose of voting; provided, however, that candidates voted for at the polling place may be within the guard-rail during the canvass.

Source.—
Former
election
law, §§ 52,
51, 137, 360,
in part.

§ 198. **Unofficial ballots; adhesive pasters.** If, for any cause, the official ballots shall not be provided as required by law at any polling place, upon the opening of the polls of an election thereat, or if the supply of official ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, or partly printed and partly written, made as nearly as practicable in the form of the official ballot, shall be used. If unofficial ballots are provided by the board or officer charged with that duty, and are delivered at the polling place, no unofficial ballots other than those so provided shall be voted after their delivery at the polling place and before the supply thereof is exhausted, except by voters who shall lawfully begin the act of voting before the receipt of such ballots.

If, by reason of the making of a new nomination or designation after the printing of the official ballots, adhesive pasters shall have been provided by the board or officer charged with that duty, the inspectors or clerks shall affix one of such pasters in the proper place and in the proper manner upon each official ballot before the ballot is delivered to a voter.

Source.—
Former
election
law, § 354,
in part.

§ 199. **Disposal of defective, mutilated or spoiled ballots.** If a ballot is found to be defective or mutilated before it is delivered to the voter, its stub and the stubs of all other ballots in the set immediately shall be detached and placed in the box for stubs, by the clerks, or if there be no clerks by the inspector assigned to the duty of delivering ballots, and all the ballots of that set immediately shall be marked "cancelled," and placed in the box for spoiled and mutilated ballots. If a voter returns a ballot as

defective, mutilated, defaced, or wrongly marked, he shall also return all the other ballots of the set, if any, and such clerks or inspector shall likewise remove their stubs, placing all the stubs in the box for stubs and all the ballots of the set in the box for spoiled or mutilated ballots, first marking the ballots "cancelled." In each case, the voter shall receive another ballot or set of ballots, unless not entitled thereto under section two hundred and eight.

§ 200. **Time allowed employees to vote.** Any person entitled to vote at an election shall on the day of election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of the election are open; provided, however, that this section shall not apply to a voter on the day of a primary election if there be two successive hours, while the polls of such election are open, in which he is not in the service of an employer. If the voter shall notify his employer before the day of election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two successive hours while the polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

Source.—
Former
election
law, § 365.

§ 201. **Use of registers, generally; poll-books in certain cases.** All copies of the register in the polling place at a general or other election for which voters are required to be registered or at a primary election, shall be referred to, if necessary, to determine the persons entitled to vote; but at any such election, including a primary election, ballot numbers shall be entered and other election entries made in only two copies of the register, which, in a city of over fifteen thousand inhabitants, shall include the copy used for taking signatures during registration; provided, however, that if the election be one for which poll-books are required to be provided, ballot numbers shall be entered and other entries made in the two poll-books instead of the registers. In a city of over fifteen thousand inhabitants, the signatures of voters taken at the election, and taken at a primary election in the city of New York, shall be made, or identification numbers entered, in one of the copies of register having, when the election opens, an unused signature column, if there be any such copy, and otherwise in one of the poll-books, to be known as the signature poll-book.

Source.—
New.

§ 202. **Proof of identity of voters in cities of over fifteen thousand inhabitants.** In a city of over fifteen thousand inhabitants, the voter, before receiving a ballot at any election, other than a primary election, and in a city of over one million inhabitants also at a primary election, shall sign his name in a copy of the register containing no signatures made by voters before the election. A woman married since she registered shall sign her former name and her present name. At an election, if

Source.—
Former
election
law, § 355,
in part.

any, where separate poll-books are required to be provided, the voter, instead of signing the register, shall sign his name in one of such poll-books to be designated for that purpose. In either case, such signature shall be made in the column entitled "signature or statement number of voter," opposite his name as entered in such register or book. The inspector assigned to the duty of comparing signatures shall compare the signature so made on election day with the signature made at the time of registration. If the two signatures so compared are sufficiently similar to identify them as having been written by the same person, such inspector shall announce that fact and shall certify thereto by writing his initials after the voter's signature so made on election day. If, when he registered, the voter had alleged his inability to sign, and was permitted to make an identification statement in lieu of signing, then one of the clerks designated by the chairman, or, if there be no clerks, an inspector so designated, other than the inspector who receives ballots from voters, shall read to the voter the same list of questions which were required to be read at the time of such registration, and such clerk or inspector shall write the answers. It shall be unlawful for any person to prompt the voter in answering such questions. The answers given by the voter before election day shall not be inspected by any one until all of his answers given on election day shall have been written down. The inspector or clerk who reads such list of questions to a voter and records his answers, shall sign and date the certificate at the end of the list so read, which certificate shall be as follows: "I certify that I have read to the above named voter each of the foregoing questions and that I have duly recorded his answers as above to each of such questions." The statements of a voter made before and at the election, respectively, shall then be compared by the inspectors. Such comparison, and the comparison of a voter's signature, shall be had in full view of the watchers, and such voter shall be subject to challenge as provided in this article. The number on the sheet which contains the voter's answers, in the book known as "identification statements for election day," shall be entered opposite his name in the copy of the register used for taking signatures of voters on election day, in the column entitled "signature or statement number of voter," or in the column so entitle* of the signature copy of the poll-book when separate poll-books are required to be provided.

Source.—
Former
election
law, §§ 367,
367a.

§ 203. Assistance to illiterate or disabled voters. 1. A person entitled to vote may have assistance in voting if (a) at the time of registration he had made oath of illiteracy or physical disability as prescribed by section one hundred and sixty-seven and claims on election day that he is still unable to prepare his ballot without assistance for the reasons stated in such oath; or (b), having been registered personally, he states under oath to the inspectors on the day of election that, by reason of some accident, the time and place of which he must specify, or disease, the nature of which he must specify, he has, since the day upon which he registered, lost the use of both hands, or become totally blind, or

* So in original. [Letter "d" omitted.]

afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he cannot enter the voting booth and prepare his ballot without assistance, or (c), having become entitled to vote within this state on or before January first, nineteen hundred and twenty-two and having been duly registered otherwise than personally, he is unable to write by reason of illiteracy and makes a statement under oath to the inspectors in the form prescribed by section one hundred and sixty-seven or (d), having been registered otherwise than personally, he is physically disabled in one or more of the ways described in section one hundred and sixty-seven and makes a statement under oath to the inspectors in the form prescribed by that section.

2. A voter entitled to assistance in voting may choose two of the election officers, not of the same political faith, to render such assistance, except that at a primary election they may be of the same political faith. At any town meeting or village election where the election officers are all of the same political faith, such voter may select one of such officers and one voter of such town or village of opposite political faith from such election officer. If the physical disability specified in the voter's oath be plainly manifest to the inspectors on election day, when he offers to vote, such voter, if he so requests, may have the assistance of his or her father, mother, brother, sister, husband, wife, or child, as he may select, instead of election officers. The inspectors shall enter in the two copies of the register, opposite the name of an assisted voter, or in the poll-books, if such books are required to be provided, in the proper "remarks" column, the name of each officer or person rendering the assistance and the reason for such assistance. If the assistance be given by a relative, as above provided, the words "plainly disabled" also shall be entered, together with a word descriptive of such relationship. The officers or person assisting a voter shall enter the voting booth with him, help him in the preparation of his ballot and, if necessary, in the return of the voted ballot to the inspectors for deposit in the ballot box.

3. If a voter makes any false representation to obtain assistance in voting, he shall be punishable therefor as prescribed by the penal law. An election officer or other person assisting a voter shall not in any manner request or seek to persuade or induce the assisted voter to vote any particular ticket, or for any particular candidate, and shall not keep or make any memorandum or entry of anything occurring within the voting booth, and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such voter, or which ticket he has voted, except when required pursuant to law to give testimony as to such a matter in a judicial proceeding. A person, other than an election officer, who assists a voter in voting shall make oath, before entering the booth, that he "will not in any manner request, or seek to persuade, or induce the voter to vote any particular ticket or for any particular candidate, and that he will not keep or make any memorandum or entry of anything occurring within the booth,

and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by the voter, or which ticket he had voted, or anything occurring within the voting booth, except when required pursuant to law to give testimony as to such a matter in a judicial proceeding."

Source.—
Former
election
law,
§§ 72, 78a,
subd. 4.

§ 204. **Challenges at primary elections.** At a primary election, a person applying to vote upon the name of an enrolled party voter may be challenged when he applies for an official primary ballot or when he offers the ballot he intends to vote. He may be so challenged by an inspector, or by a duly appointed watcher or challenger or qualified voter present and shall be so challenged by any inspector who knows or suspects that such person is not entitled to vote in the district at such primary. If challenged, the chairman or one of the inspectors shall tender to him the following oath: "You do swear (or affirm) that you will true answers make to the questions about to be put to you, concerning your identity and residence." Such person shall be allowed to vote if, and only if, he shall make such oath or affirmation and shall answer in the affirmative each of the following questions: "Are you (using the name given by him and which appears on the register as that of an enrolled voter)? Do you reside and have you for thirty days last past resided at (stating the address, within the election district, which he has given as his residence)? The inspectors in charge of the registers shall make, in the proper "remarks" column for the primary, opposite the name of the challenged voter, a note of the challenge and of the oath taken. The inspectors also shall keep a minute of challenges, showing the names of all persons offering to vote who were challenged, the oath taken by each, and whether the person challenged voted or did not vote, and shall append thereto at the close of the primary their certificate that such minutes are correct and complete.

Source.—
Former
election
law,
§§ 361-364.

§ 205. **Challenges at elections other than a primary election.** 1. At an election other than a primary election a person may be challenged when he applies for an official ballot or when he offers the ballot he intends to vote. A person may be so challenged by any inspector or by any duly appointed watcher or challenger. An inspector shall challenge every person offering to vote whom he shall know or suspect not to be entitled to vote in the district, and every person offering to vote whom he is required by a qualified voter, by previous notice, to challenge. The inspectors or one of them shall challenge a person offering to vote if his name appears on the challenge list furnished by the board of elections or if the words "to be challenged on election day" appear opposite his name upon the register, or if he was challenged at the time of registration and such challenge has not previously been withdrawn. When an applicant is challenged, an inspector shall administer to him the following preliminary oath: "You do solemnly swear (or affirm) that you will true answers make to such questions as may be put to you concerning your qualifications as a voter." If the applicant shall refuse to take such oath his vote shall not be received.

2. If the person shall have applied to vote upon the name of a person challenged on a day of registration, such inspector after administering such preliminary oath shall read to the applicant each question upon the copy of the challenge affidavit signed at the time of registration by such challenged person and shall compare the answers given to such questions with the answers recorded upon the copy of the challenge affidavit, and the description of the person challenged upon registration with that of the applicant. If there shall be any material difference between the answers recorded upon the challenge affidavit and those given by the applicant, or between the description of the person challenged upon registration and the applicant, or if the applicant shall refuse to answer any question put to him, his vote shall not be received.

3. If the person shall have applied to vote upon the name of a person not challenged on a day of registration, such inspector, after administering such preliminary oath, shall ask the applicant the same questions that were asked of him when he registered and shall question him in relation to his name, his place of residence before he came into that election district, his then place of residence, his citizenship, whether he is a native or naturalized citizen and if the latter, when and in what court he was naturalized, whether he came into the election district for the purpose of voting at that election, how long he contemplates residing in the election district and such other questions as may pertain to his right to vote at such election in such district. If any applicant shall refuse to answer fully any such questions which may be put to him, his vote shall not be received.

4. After receiving the answers as above specified of any applicant the board shall, if it believes the applicant to be qualified, and the challenge to him is withdrawn, permit him to vote. Otherwise, the board shall point out to him the qualifications, if any, in respect of which he shall appear deficient. If, after such deficiencies have been so indicated, the applicant shall persist in his claim to vote, an inspector shall administer to him the following general oath: "You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for the last thirty days a resident of this election district, and that you have not voted at this election." In the case of a woman, if it shall appear from the preliminary inquiries or otherwise that she is or claims to be a citizen by marriage, the following words shall be added to such oath at the end thereof: "and that you have been an inhabitant of the United States for five years." If the applicant shall be challenged for the causes stated in section two of article two of the constitution of this state, such inspector shall administer to him the following additional oath: "You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, or contributed, offered or

promised to contribute to another, to be paid, or used, any money or any other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that you have not made, or become directly or indirectly interested in any bet or wager depending upon the result of this election." If the applicant shall be challenged on the ground of having been convicted of bribery or any infamous crime, such inspector shall administer to him the following additional oath: "You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen." If any person shall refuse to take any oath so tendered his vote shall not be received, but if he shall take the oath or oaths tendered to him his vote shall be received; provided, however, that a new voter as defined in section one hundred and fifty may not vote unless the inspectors shall have ascertained, on a day of registration, or at the election, that he is able, except for physical disability, to read and write English.

5. The inspectors in charge of the registers, or poll-books, if any, shall make, in the proper "remarks" column for the election, opposite the name of the challenged voter, a note of the challenge and of the kind of each oath taken, if any. The inspectors also shall keep a minute of challenges, showing the names of all persons offering to vote who were challenged, the kind of oath or oaths, if any, taken by each, and whether the person challenged voted or did not vote, and shall append thereto at the close of the election their certificate that such minutes are correct and complete.

Source.—
New.

§ 206. **Ascertaining party voters, if, by accident, enrollment not shown by register.** 1. If a registered voter marked an enrollment blank on a preceding day of enrollment and his enrollment as so indicated was not entered in the register, he nevertheless shall be permitted to vote at the primary election, with the party under whose name he marked such blank, if he produces a certificate of the board of elections that he marked an enrollment blank specifying the party, and that the entry of his enrollment on the register was omitted by inadvertence or mistake and in such a case the board of elections shall issue such certificate on demand. The inspectors at the primary shall then and there enter the name of the party of his enrollment on the register.

2. If the marked enrollment blanks for an election district shall have been lost or destroyed, thereby preventing the entry of enrollments on the register, in any year, the enrollment list of the previous year shall be used for ascertaining the persons entitled to vote at the primary election, and their respective parties. A registered voter for the year in which the primary is held, whose name is on the enrollment list of such previous year, may vote with the party with which he was so enrolled. If, on such a preceding day of enrollment, he marked an enrollment blank under the name and emblem of another party, or if the

name of a registered voter does not appear in the enrollment list for the preceding year, he may deliver to the inspectors at the primary election his affidavit specifying the party under whose name and emblem he marked an enrollment blank on such a preceding day of enrollment and shall be allowed to vote with that party. Before the delivery of a ballot pursuant to this subdivision the inspectors shall enter the name of the proper party opposite the name of the voter in the register. The board of elections shall furnish to the inspectors a copy of the register for the preceding year showing party enrollments, or shall furnish a list of such enrollments if the boundaries of the election district have been changed.

§ 207. **Delivery of ballot to voter.** 1. While the polls of the election are open, voters who have not previously voted thereat may, for the purpose of voting, enter within the guard-rail, through the entrance provided therefor; but not more than twice as many voters as there are voting booths shall be within the guard-rail at one time, in addition to persons lawfully there for other purposes than voting. The voter shall give his name to the inspectors, and, if in a city or village of five thousand inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality, and if required by the inspectors shall state whether or not he is at least twenty-one years of age. An inspector shall then announce, loudly and distinctly, the name and residence of the voter. If the election be one where poll-books are required to be provided, his name and residence shall be entered in both such books by the inspectors in charge of the registers. A person shall not be allowed to vote in any election district at an election where voters are required to be registered unless his name shall be upon the register for such election district. A person shall not be allowed to vote the ballot of a party at a primary election in any election district unless his enrollment with such party appears in such register. In a city of over fifteen thousand inhabitants, a person shall not be allowed to vote unless he shall have signed his name or made an identification statement as required by section two hundred and two, except that at a primary election such signature or statement shall not be required outside of a city of over one million inhabitants. In the case of a new voter, as defined by section one hundred and fifty, at a general election or a special election for which voters are required to be registered under the provisions of this chapter, in an election district where registration is not required to be personal, if the word "examine" was entered opposite his name in the registers, he shall not be allowed to vote unless it appear to the satisfaction of the board of inspectors, by the test or proof prescribed by section one hundred and sixty-six, that he is able to read and write English, except in the case of such a voter who is shown to be incapacitated therefrom by physical disability. A new voter, as so defined, at an election for which voters are not required to be registered under the provisions of this chapter shall not be allowed to vote unless it appears to the satisfaction of the election

Source.—
Former
election
law,
§§ 291, 356,
355, in
part.

officers, from such sources of information as may be available, that he is able to read and write English, except in the case of such a voter who is shown to be so incapacitated by physical disability; and for such purpose the election officers may require him to produce a certificate of literacy described in section one hundred and sixty-six.

2. The right of any person to vote whose name is on the register shall be subject to challenge. If such voter is entitled to vote and is not challenged, or a challenge be decided in his favor, one of the clerks, or if there be no clerks the inspector assigned to the duty of delivering ballots, shall then deliver to him one official ballot or set of official ballots, in the numerical order of the ballot or set, beginning with number one, and shall at the same time announce, loudly and distinctly, the number on the stub or stubs thereof. If the ballots are in sets, they shall be delivered in sets. If a new ballot or set of ballots be lawfully delivered to the same voter, a similar announcement shall be made as to the number on the stub or stubs of each new ballot or set delivered. Each ballot, when delivered, shall be folded in the proper manner for voting, which is: first, by bringing the bottom of the ballot up to the perforated line, and second, by folding both sides to the center or toward the center in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so that the stub can be removed without removing any other part of the ballot and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. The number on each ballot or set of ballots so delivered, as printed on the stub or stubs, shall be entered forthwith opposite the name of the voter in the proper column of the two copies of the register, or of the two poll-books if such books are required to be provided.

3. No person other than an inspector or clerk shall deliver to any voter within the guard-rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, other than sample ballots.

4. Voters entitled to vote who are in the polling place at or before the time fixed by law for the closing of the polls shall be allowed to vote.

Source.—
Former
election
law, § 288,
in part.

§ 208. **Manner of voting.** 1. On receiving his ballot, the voter forthwith and without leaving the inclosed space shall retire alone, unless he be entitled to assistance in voting, to one of the voting booths and mark his ballot for voting, using only a pencil having black lead. He shall not enter a booth already occupied, nor occupy a booth more than five minutes if other voters are waiting to occupy it. In marking his ballot, he shall follow the rules prescribed in section two hundred and nineteen. If the voter wrongly mark, deface or tear a ballot or one of a set of ballots, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning to the inspectors or clerks each set of ballots already received.

2. When the voter shall have prepared his ballot or ballots, he shall leave the booth with each ballot folded so as to conceal the face thereof but to show the indorsement and fac simile of the official signature on the back, and, keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box, and shall offer such ballot or ballots to such inspector. Such inspector shall announce, loudly and distinctly, the name of the voter and the printed number on the stub or stubs of the ballot or ballots so received by him. If such voter be entitled then and there to vote, and be not challenged, or a challenge be decided in his favor, and if his ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed number on the stub and the printed indorsement on the back, and if such number is the same as that entered in the registers, or poll-books, as the number on the stub or stubs of the official ballot or set of ballots last delivered to him, such inspector shall receive such ballot or ballots, and after removing the stub or stubs therefrom in plain view of the voter, and without removing any other part of the ballot, and without unfolding the ballot or in any way exposing any part of the face of the ballot below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots of the kind so received, and the stubs in the box for detached stubs. The number on the ballot or set of ballots so voted, as printed on the stub or stubs, shall be entered forthwith opposite the name of the voter in the proper column of the two copies of the register, or of the two poll-books if such books are required to be provided. Upon voting, the voter forthwith shall pass outside the guard-rail, unless he be a person authorized to remain for other purposes than voting.

3. When a person shall have received an official ballot from any clerk or inspector, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again within the guard-rail for the purpose of voting; or to receive any further ballots.

4. Except as otherwise provided with respect to voters entitled to assistance because of illiteracy or physical disability, no voter shall ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to anyone within the polling place the name of any candidate for whom he intends to vote or has voted, or how he intends to vote or has voted upon a question. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except as provided by section one hundred and ninety-eight. No person to whom any official ballot shall be delivered shall leave the space within the guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the clerks.

§ 209. **Delivery of enrollment blank to voter at general election, if registration was not personal.** At a general election, when a registered voter whose registration was not personal and

Source.—
Former
election
law, § 20.

who was not enrolled on any day of the preceding registration is given an official ballot, the inspectors shall tender to him an enrollment blank, having the lowest enrollment number then unused. The voter may mark and return such blank, and the inspectors shall perform the duties in connection therewith, as prescribed in section one hundred and seventy-one.

Source.—
Former
election
law, § 531,
in part,
§§ 532, 534.

§ 210. **Casting of absentee voters' ballots; objections.** 1. If, at a general election, any absentee voters' envelopes shall have been received at the polling place, the inspectors immediately after the closing of the polls shall examine them. In an election district where voters are required to sign the register at the time of registration, an inspector shall compare the signature, if any, on each envelope with the signature, if any, on the register, of the person of the same name who registered from the same address. If the signatures are found to correspond, such inspector shall certify thereto by signing his initials opposite the name of the voter in the registration signature copy of the register in the "remarks" column relating to the general election. In any election district, if a person whose name is on an envelope, as a voter, has already voted in person at such election, or if his name and residence, as stated on the envelope, are not on the register, his envelope shall be laid aside unopened and be returned unopened to the board of elections, with the other returns of the election. If such person is found to be registered and has not so voted in person, and if no objection is made, or if an objection made be not sustained, the envelope shall be opened, the ballot or ballots withdrawn without unfolding, the stubs if any removed and the ballot or ballots, and stubs if any, deposited in the proper box or boxes. If, in a district where personal registration is not required, the voter has not upon a day of registration received an enrollment blank and such a blank is contained in his envelope, it shall be deposited in the enrollment box. At the time of the deposit of such ballot or ballots, the inspectors shall enter the words "absentee vote" in the two copies of the register used for the election day entries, in the "remarks" column relating to such election.

2. During such examination any person present in the polling place may object to the voting of the ballot or ballots contained in any envelope upon the ground or grounds that the person named thereon is not a qualified voter of the election district or that he was within the county while the polls of the election were open or that he was not entitled to cast such ballot or ballots. An inspector shall make such an objection if he shall know or suspect that the person named on such envelope is not such a qualified voter or was so within the county, or was not entitled to cast such ballot or ballots. The board of inspectors forthwith shall proceed to determine each objection. Unless the board, by majority vote, shall sustain the objection, the chairman, or if he refuse, another inspector shall endorse upon the envelope the objection and the words "not sustained," and shall sign such endorsement, and shall open the envelope and deposit the ballot or ballots as provided in this section. Should the board, by majority vote, sustain such

objection, the objection and the word "sustained" shall be similarly endorsed upon the envelope, the envelope shall not be opened nor the ballots therein canvassed, and such envelope shall be returned unopened to the board of elections.

3. As each envelope is opened, if one or more of the different kinds of ballots to be voted at the election are not found therein, the clerks, or inspectors, shall make a memorandum showing what ballot or ballots are missing. When the casting of absentee voters' ballots shall have been completed the clerks or inspectors shall ascertain the number of such ballots of each kind which have been deposited in the ballot box, by deducting from the number of envelopes opened the number of missing ballots, and shall make a return thereof in duplicate. The number of absentee voters' ballot deposited in the ballot box shall be added to the number of other ballots deposited in the ballot box, in order to determine the number of all ballots of such kind to be accounted for in the ballot box.

§ 211. Preparation of ballot returns; sealing of unused, cancelled and spoiled ballots. At the close of the polls and before any boxes containing voted ballots are opened, the clerks, or if there be no clerks, two inspectors of opposite political faith, designated by the chairman, shall make up in duplicate in ink the ballot returns, which shall account for all of the official ballots furnished to the election district, except the absentee voters' ballots accounted for pursuant to the preceding section. They shall count and verify the number of each kind of unused ballots and enter it upon the ballot returns. They shall then open the box for ballots cancelled before delivery and spoiled and returned by voters, separate them into their several kinds, count all ballots of each kind and enter the several results upon such returns. They shall make the additions and subtractions called for by the returns and prove their figures. If adhesive pasters have been used for any office or party position, the return for the ballots for which the pasters were supplied shall contain a memorandum showing the number of pasters received, the number affixed to ballots and the number unused and returned. Such clerks or inspectors shall then tie securely in a separate package each kind of ballot and each kind of stub, counted as above provided, and shall plainly label, seal and return the same to the box from which it was taken, and securely lock and seal the box. Such clerks or inspectors also shall securely tie all unused ballots in a sealed package. They shall then sign such ballot returns.

Source.—
Former
election
law, § 206,
in part.

§ 212. Proceedings of inspectors at close of polls. 1. The inspectors, at the close of the polls, shall compare the two registers, or the poll books if any, as to the number of voters voting at the election, or voting the ballots of a party if it be a primary election, and shall correct any mistakes therein.

Source.—
Former
election
law,
§§ 204, 205.

2. The inspectors then shall fill out and sign a return upon the challenge list furnished by the board of elections, stating as to each name thereon, either "voted," giving the reasons for the

allowance of such voting, "challenged but did not vote" or "no application," as the case may be.

Source.—
Former
election
law,
§§ 366, 371.

§ 213. **General provisions as to canvass.** At the close of the polls of an election, and as soon thereafter as the inspectors shall have completed the duties specified in the foregoing sections, the inspectors of election thereat shall publicly canvass and ascertain the votes and shall not adjourn or postpone the canvass until it shall be fully completed. When ballot boxes may properly be opened, as hereinafter provided, they shall be opened and the ballots canvassed in the following order: the box, if any, containing presidential elector ballots; the box, if any, containing general ballots; the boxes, if any, containing ballots upon constitutional amendments or other questions submitted, including town propositions or appropriations. At a primary election, the boxes containing ballots of the parties represented on the board of inspectors shall be opened and the ballots therein canvassed before the ballots of other parties are canvassed. The room in which such canvass is made shall be clearly lighted, ingress and egress through the main entrance thereto shall be freely permitted, and such canvass shall be made in plain view of the public. The ballots shall at all times be kept on top of the table and in plain view of all persons entitled to examine them, until they have been tied into bundles as elsewhere provided. If requested by any person entitled to be present the inspectors shall, during the canvass of any ballot, exhibit to him the ballot then being canvassed, fully opened and in such a condition that he may fully and carefully read and examine it, but no inspector shall allow any ballot to be taken from his hand or to be touched by any person but an inspector.

Source.—
Former
election
law, § 367.

§ 215. **Verifying number of ballots.** 1. The board of inspectors, at the beginning of the canvass, shall count the ballots found in each ballot box without unfolding them, except so far as to ascertain that each ballot is single, and shall compare the number of ballots found in each box with the number shown to have been deposited therein, by the registers or poll-books, and the ballot returns.

2. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors shall, with his back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them, forthwith shall enclose them in an envelope which he shall then and there seal and indorse "excess ballots from the box for (ballots for presidential electors, or ballots for general officers, or party ballots or otherwise, as the case may be)," and shall sign his name thereto, and place such envelope in the box for defective or spoiled ballots.

3. If two or more ballots shall be found in a ballot box so folded together as to present the appearance of a single ballot, and if the whole number of ballots in such box exceeds the whole number of ballots so shown to have been deposited therein, they,

or enough of them to reduce the ballots to the proper number, selection to be made without examination of any voting mark thereon, similarly shall be inclosed, sealed, indorsed and placed with the spoiled ballots.

4. If, however, there lawfully be more than one ballot box for the reception of ballots, no ballot found in the wrong ballot box shall for that reason be rejected, but it shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if it was found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are so shown to have been deposited in the proper box.

5. No ballot that has not the official indorsement shall be counted except such as are voted in accordance with the provisions of section one hundred and ninety-eight.

§ 216. **Method of canvassing.** 1. The method of canvassing ballots other than for presidential electors and ballots upon propositions or questions shall be as follows: The inspectors shall unfold each ballot of the kind then to be canvassed and shall place all such ballots upon the table in one pile face down. The chairman then shall take up each ballot in order, turn it face up and announce loudly and distinctly the vote registered on each section, in the order of the sections upon the ballot, or that the ballot is void or the section blank, as the case may be. If more than one person is to be elected to the same office or party position the chairman, if the ballot is void or the ballot or section is wholly blank, shall announce as many void or blank votes as there are persons to be elected to the office or party position. On a primary ballot a "section," as the term is used above, shall be deemed to mean the space occupied by the title of an office or party position, names of candidates therefor and the voting squares therewith. The canvass of each ballot must be completed before the next ballot is taken up or canvassed, except that in canvassing the general officer's ballots at a general election in an even numbered year the votes upon the first section of each ballot shall be canvassed first, and when the canvass of such section on each such ballot is completed the ballot shall be placed in a new pile. When the tallies of the votes on the first section of all such ballots are proven, and the result announced, the inspectors' returns of the vote thereon shall be filled out. The remaining sections of each such ballot shall then be canvassed, the canvass of each ballot to be completed before the next ballot is taken up or canvassed.

Source.—
Former
election
law, § 268.

2. The method of canvassing ballots for presidential electors shall be as follows: The inspectors shall unfold each ballot and shall place upon the table the straight ballots, that is, all valid ballots on which all the candidates in any party group are voted for, in piles, like with like, the split ballots, that is all valid ballots marked in one or more of the individual voting squares, or with names written thereon, in one pile, and all void ballots and wholly blank ballots likewise in separate piles. Each of the piles then

shall be counted, and the chairman shall clearly announce the result. The split ballots shall then be canvassed and the result thereof announced as provided in the previous subdivision.

Source.—
Former
election
law,
§§ 368, 370.

§ 217. Method of tallying votes except for presidential electors.

1. As each vote for any office or position other than the office of presidential elector, or upon any proposition or question, is announced, each clerk, or, if there be no clerks, each of two inspectors of opposite political faith designated by the chairman, immediately shall tally it in black ink, with a downward stroke from right to left, upon the official tally sheet and shall also tally one for each blank or void vote if any. Each such clerk or inspector, as he tallies a vote, shall announce clearly the name of the person for whom he tallies it, or that he tallies the vote blank or void as the case may be, or, in case of a proposition or question submitted, that he tallies the vote "yes" or "no." When the name of a person voted for is not printed on the tally sheet such clerks or inspectors shall write it in full thereon in ink, in the place provided therefor.

2. When all the votes upon the same office, position or question shall have been canvassed the tally thereof shall be verified by adding together all the votes tallied thereupon. If, in a case where more than one candidate is to be nominated for or elected to one office or party position, the total number of votes tallied (including void and blank votes), does not exactly equal the number of ballots cast (including void and blank ballots), multiplied by the number of persons to be nominated or elected, or if, in the case of a question submitted, or in a case where only one candidate is to be nominated or elected, the total number of votes tallied (including void and blank votes), does not exactly equal the number of ballots cast (including void and blank ballots), an error has been committed and a recanvass must be made immediately. In applying this section to a primary election the term "ballots" means the ballots of the party whose tallied votes as to an office or party position are counted as above provided. Upon a recanvass the clerks or inspectors must keep the tally in red ink from left to right across the previous tally marks.

3. When the errors if any have been corrected such clerks or inspectors shall indicate the last tally opposite each name by forthwith drawing in red ink a long horizontal line immediately after the last tally mark opposite such name. Such tally sheets having thus been prepared, verified and closed, such clerks or inspectors shall sign their initials on each sheet, in any blank space thereof.

Source.—
Former
election
law,
§§ 368, 370,
subd. 2.

§ 218. Methods of tallying votes for presidential electors.

1. In the case of ballots for presidential electors such clerks or inspectors shall enter on the tally sheet in gross opposite the name of each candidate the number of straight votes counted for him, and, in the appropriate places, the number of void and the number of wholly blank ballots, and shall tally, as provided in subdivision one of the preceding section in the appropriate place, the votes upon the split ballots.

2. When all the votes for presidential electors shall have been canvassed the tally thereof shall be verified by such clerks or inspectors in the following manner: They shall add together the votes counted for electors named on the ballot. They then shall add together the votes counted for candidates not on the ballot. They then shall add together the void and wholly blank ballots and shall multiply the sum so obtained by the number of electors to be elected. They then shall add together the votes on the split ballots tallied as blank. They then shall add together the four sums so obtained. If the total of the four sums does not exactly equal the number of ballots cast (including void and blank ballots) multiplied by the number of electors to be elected, an error has been committed, and a recanvass must be made immediately.

§ 219. **Rules for counting votes.** Rule 1. The whole ballot is void if the voter (a) does any act extrinsic to the ballot such as enclosing any paper or other article in the folded ballot or (b) defaces or tears the ballot or (c) makes any erasure thereon or (d) makes any mark thereon other than a cross $\times$ mark in a voting square or circle, or other than the writing in of a name for the purpose of voting; except that an erasure or a mark other than a cross $\times$ mark made in a voting square shall not make the ballot void, but shall render it blank as to the office, party position or question in connection with which it is made. A cross $\times$ mark is any straight line crossing any other straight line at any angle, but no ballot shall be declared void or partially blank because a cross $\times$ mark thereon is irregular in form. In applying any provision of this section to a primary election, the term "voting square" shall include the voting space at the left of the name of a candidate on the primary ballot.

Source.—
Former
election
law, § 358.

Rule 2. A cross $\times$ mark, made by the voter, in a voting square at the left of a candidate's name shall be counted as a vote for such candidate.

Rule 3. A vote shall be counted for a person, for an office or party position, if his name is written by the voter upon the ballot in the proper space provided therefor and is not printed under the title of such office or position.

Rule 4. If, in the case of a candidate for governor or member of assembly who is nominated by two or more political organizations, the voter shall make a cross $\times$ mark in each of two or more voting squares before the candidate's name, one vote shall be counted for such candidate but shall not be recorded in the tally sheet or returns as a vote with any particular party or independent body.

Rule 5. A cross $\times$ mark made by the voter, in a voting square following the word "Yes" or the word "No," before a constitutional amendment or other question submitted, shall be counted in the affirmative or negative, as so indicated.

Rule 6. If the voter marks more names than there are persons to be elected or nominated for an office, or elected to a party position, or if for any reason it is impossible to determine the voter's choice of a candidate or candidates for an office or party

position or his vote upon a question, his vote shall not be counted for such office or position or upon the question, but shall be returned as a blank vote thereon.

Rule 7. A cross $\times$ mark, made by the voter, in a circle above a column, known as a party column, containing the names of candidates for presidential electors nominated by a party or independent body, the voter having made no other mark or writing on the ballot, shall be counted as a vote for each candidate named in such column. If the voter shall have made such mark in the circle above a party column and also in a voting square or in each of two or more voting squares in the same column, without having made a voting mark in any other column and without writing in any name, such individual voting marks shall be treated as surplusage, and the mark in the circle shall be counted as a vote for each candidate named in such column. If, however, the voter shall have made such mark in the circle above a party column and in a voting square or each of two or more voting squares in the same column and also in another column or columns or also writes a name or names in the blank column, the votes on a ballot so marked shall be counted only for the persons so specially indicated.

Rule 8. If the voter shall have made a cross $\times$ mark in the circle above a party column and no voting mark in any voting square in the same column and shall have made a cross $\times$ mark in a voting square or in each of two or more voting squares in another column or columns, or also writes in a name or names in the blank column, a vote shall be counted for each candidate before whose name any such mark is made and for each person whose name is so written and also for each candidate for presidential elector whose name is in the column below such circle except one whose name is printed on a horizontal line with a name so specially marked or written; provided, however, that if the voter shall have made a cross $\times$ mark in the circle above a party column and also cross $\times$ marks in voting squares before any two or more names on the same horizontal line, or shall have written a name in a blank space on a horizontal line with one or more names so individually marked, the votes on a ballot so marked shall be counted only for the persons whom, by individual voting marks or by writing, the voter shall have specially indicated.

Source.—
Former
election
law, § 369.

§ 220. **Objections to the counting.** If objection be taken to the counting of any ballot or as to the counting thereof with respect to one or more specified offices, party positions or questions, the board of inspectors shall forthwith and before canvassing any other ballot or section rule upon the objection. If the objection be continued after this ruling, the chairman, or if he refuse, one of the other inspectors, shall write in ink upon the back of the ballot a memorandum of the ruling and objection. The memorandum of the ruling shall be in the words "Counted void," or "Counted blank," or "Counted for (naming the candidate or candidates or the presidential ticket)," or, in the case of a question submitted "Counted for Question No. . .," or

"Counted against Question No. ...," as the case may be. The memorandum of the objection shall be in the words "Objected to," followed by a brief statement of the nature of the objection and the signature of the chairman or other inspector.

Any ballot as to the counting of which objection is not taken but which is wholly blank or is void shall be indorsed in ink by the chairman of the board of inspectors, or if he refuse, by one of the other inspectors, with the words, "Wholly blank" or "Void," as the case may be, and this memorandum of indorsement shall be followed by the signature of the chairman or other inspector.

When all the ballots of any one kind shall have been canvassed, the inspectors shall ascertain the total number of wholly blank and void ballots and the number of ballots as to which any objection was taken and shall enter such numbers in the place provided therefor in the inspectors' returns of such canvass.

§ 221. **Statement of canvass to be delivered to police in a city.** In an election district of a city, the chairman of the board of inspectors shall, upon the completion of the count of votes and the announcement thereof, shall* deliver to the police officer on duty at the polling place a statement signed by the board of inspectors, stating the number of votes received by each person voted for and the number of votes cast for and the number of votes cast against each constitutional amendment or other question submitted; provided, however, that this section shall not apply to a primary election outside of the city of New York. Such officer forthwith shall convey the statement to the stationhouse of the police precinct in which such place of canvass is located, and shall deliver it inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such city. In the city of New York, such commanding officer shall cause all such returns to be tabulated so that the final result may be known as early as possible, and within twenty-four hours of its receipt at the stationhouse such statement itself shall be filed with such commanding officer. The police department in the city of New York shall immediately after the close of the polls collect the returns from each election district as heretofore and shall tabulate the returns and furnish all newspapers and news associations with a copy of all such tabulations made by the police department and no preference shall be given. All statements made pursuant to this section shall be preserved for six months by the police and shall be presumptive evidence of the result of such canvass.

Source.—
Former
election
law, §§ 372,
37, in part.

§ 222. **Returns of canvass.** Upon completing the canvass, the inspectors shall make, in duplicate, their returns of the canvass. They shall use therefor the printed forms supplied to them, and they shall carefully insert thereon, in ink, the appropriate names, words and figures according to the directions printed in the form pursuant to this chapter. Each of the two tally sheets for any

Source.—
Former
election
law,
§§ 373, 374,
in part.

* So in original [word "shall" repeated].

office, party position or question shall be securely attached by the chairman to one set of the returns containing statements of the votes thereon, where the form of return supplied to the inspectors is not combined with the tally sheet itself. A tally sheet, when so annexed, or forming part of the same paper as the return, shall be treated as part of the return. The inspectors, and clerks, if any, shall subscribe in ink the certificate at the end of each of the two sets of returns. Except in the city of New York, the board of elections of any county may, in its discretion, require the making and signing, in the manner herein provided, of an additional copy of the returns of canvass, without the tallies, as to some or all of the offices or questions voted for at a general election at which votes are cast for city or town offices. Each set of returns shall be securely sealed with sealing wax in separate envelopes properly indorsed on the outside by the inspectors, except that boxes, if any, supplied by the board of elections, may, when securely locked, be used instead of sealed envelopes.

Source.—
Former
election
law, § 376.

§ 223. **Proclamation of result.** Upon the completion of the canvass and of the statements of the result, the chairman of the board of inspectors shall make public oral proclamation of the whole number of votes cast at the election at the polling place for all candidates for each office, or, if it be a primary election, the whole number of party votes of each party so cast for all candidates for each office or party position; upon each proposed constitutional amendment or other question, if any; the whole number of votes given for each person, with the title of the office or party position for which he was named on the ballot; and the whole number of votes given, respectively, for and against each such proposed constitutional amendment or other question, if any.

Source.—
Former
election
law,
§§ 9, 12.

§ 224. **Certification of registers as to enrollments occurring at the general election.** At the close of the day of general election, in an election district in which the enrollment of any voters is permitted on the day of such election, the inspectors shall sign the certificates, printed in the four registers, to the effect that the persons having enrollment numbers, as shown by the two copies of the register used for enrollments, whose number is higher than the last enrollment number used on the last preceding day of registration, constitute all of the persons voting in that district at such general election whose registration was not personal and who had not, after such registration, applied for enrollment on a day of registration.

Source.—
Former
election
law, § 378.

§ 225. **Returns of canvass in city of New York for certain offices voted for within and without such city.** If any member of assembly, senator or representative in congress is voted for in any election district in the city of New York, and also in any part of any county not within such city, the inspectors of election in such election districts in such city shall at the same time that they make and sign their returns of canvass, make and sign a separate return as to the vote for each candidate for any such office, and the chairman of the board of inspectors shall

within twenty-four hours after the completion of the canvass file such return with the clerk of such county outside of the city of New York.

§ 226. **Sealing of ballots after canvass.** After the returns of the canvass are made out and signed, the inspectors shall enclose the protested, void and wholly blank ballots in a separate sealed package and endorse thereon a certificate signed by each of them stating the number of the district and the number of ballots contained in the package. The inspectors shall then tie up and seal the other voted ballots and return them to the ballot box which contained them and securely lock and seal the box.

Source.—
Former
election
law, § 200.

§ 227. **Disposal of ballot and enrollment boxes, unused ballots and certain other articles.** After the returns of the canvass are made out and signed, and all the stubs and ballots, except the protested, void and wholly blank ballots, are replaced in the boxes from which they were taken, each box shall be securely locked and sealed, and, except as hereinafter provided, shall be deposited by an inspector designated for that purpose with the officer or board furnishing it, together with the separate sealed package of unused ballots, and any empty box provided for containing card slips for literacy tests. In the city of New York, every box containing any ballots or stubs and the package of unused ballots shall be delivered at the polling place, at the conclusion of the canvass, to the police, who shall deposit them with the board of elections. The locked and sealed enrollment box, and the contents thereof, used at a general election where registration is not required to be personal shall be deposited with the board of elections by the chairman of the board of inspectors, or by an inspector designated by him.

Source.—
Former
election
law, § 274,
in part.

§ 228. **Filing of registers, returns and other papers, except in the city of New York.** After the completion of the canvass, if the election be other than an election of town, city, village or school officers, held at a different time from a general election, the registers, books, returns and other papers enumerated below shall be disposed of as follows, except as otherwise provided:

Source.—
Former
election
law, § 277,
§ 87, in
part, § 100,
in part.

1. In a city, all of the registers, one set of each kind of returns with tally sheets annexed, the absentee voters' envelopes, the challenge records, the package of protested, void and wholly blank ballots, and the identification statements, if there be any, shall be filed with the board of elections, and the flag shall be returned to it. The other sets of returns, with tally sheets annexed, and the poll-books, if any such books are used at the election, shall be filed with the city clerk. At a general election, if a third set of returns, without tally sheets, be made by direction of the board of elections, it shall be delivered to one of the city supervisors.

2. In a town, three of the registers in the polling place at a general election, or both of the registers used at any other election, one set of each kind of returns with tally sheets annexed, the absentee voters' envelopes, the challenge records, and the packages of protested, void and wholly blank ballots shall be filed with the board of elections, and the card slips, if any, for literacy

tests and the flag shall be returned to it. The other sets of returns with tally sheets annexed, and, if it be a general election, one of the registers used for recording the numbers on ballots voted, shall be filed with the town clerk. At an election, if any, where poll-books are used, such books also shall be filed with the town clerk. At a general election, if a third set of returns, without tally sheets, be made by direction of the board of elections, it shall be delivered to the supervisor of the town, or to a town assessor if the supervisor be absent or disabled.

3. Returns and books to be filed with a city clerk and the returns, and registers or books, if any, to be filed with a town clerk, and returns, if any, to be delivered to a supervisor or assessor, pursuant to this section, shall be so filed or delivered immediately after the completion of the returns of the canvass, by an inspector designated by the board of inspectors. Returns, papers and registers to be filed with the board of elections shall be so filed by the chairman of the board of inspectors within twenty-four hours after the completion of such returns.

4. This section shall not apply to the city of New York.

Source.—
Former
election
law,
§§ 180, 272.

§ 229. **Filing of registers, returns and other papers in the city of New York.** In the city of New York the board of inspectors, at the close of the canvass, shall deliver to the police at the polling place the registers, challenge list if any and the return thereon, records, keys, the flag, and other election supplies, except the returns of the canvass and the absentee voter's envelopes. The chairman of the board of inspectors shall file one set of returns, the package of void, protested and wholly blank ballots, if any, and the absentee voters' envelopes, if any, within twenty-four hours after the close of the polls, in the office of the board of elections or its branch office within the borough, as the case may be. Another inspector shall, within the same time, file the other set of returns in the office of the county clerk.

ARTICLE 9.

SPECIAL PROVISIONS RELATING TO VOTING MACHINES.

Section 240. Voting machine commissioners.

241. Examination of voting machine by voting machine commissioners.*

242. Requirements of voting machine.

243. Adoption of voting machine.

244. Experimental use of voting machines.

245. Providing machines, generally.

246. Providing machines in first class cities.

247. Payment for machines.

248. Enrollment booths and boxes for absentee voters' ballots.

249. Form of ballots on voting machines.

250. Sample ballots.

251. Preparation of voting machines by boards of elections.

252. Instruction of election officers.

* So in original. [Does not conform to section heading.]

Section 253. Instruction of voters before election.

254. Distribution of ballots and stationery.

255. Opening of the polls; certain preliminaries.

256. Examination of machine by inspectors on election day and final preparation thereof.

257. General provisions as to conduct of election.

258. Instruction of voters on election day; assistance to voters.

259. Manner of voting.

260. Voting for person other than a nominated candidate.

261. Unofficial ballots; repair of machine or use of paper ballots.

262. Canvass of vote and proclamation of result.

263. Statements of canvass.

264. Preservation of ballots and of record of the machine.

265. Custody of voting machines and keys.

266. Provision for re-canvass of vote.

267. Application of other articles and penal law.

268. Definitions.

269. Saving clause.

§ 240. **Voting machine commissioners.** There shall continue to be a state board of voting machine commissioners, to consist of three commissioners, who shall be appointed by the governor for terms of five years, beginning with the expiration of the terms of the voting machine commissioners now in office, who, unless sooner removed, shall continue in office for the remainder of their present terms. One commissioner shall be an expert in patent law and two shall be mechanical experts, and no commissioner shall have a pecuniary interest in any voting machine. Any commissioner may be removed at the pleasure of the governor. Each commissioner shall be entitled to one hundred and fifty dollars for his compensation and expenses in making an examination and report as to each voting machine examined by him, pursuant to the next section, to be paid by the applicant for such examination.

Source.—
Former
election
law, §§ 290,
301, in
part.

§ 241. **Examination of voting machines by voting machine commissioners.** Any person or corporation owning or being interested in any voting machine may apply to the state board of voting machine commissioners to examine such machine. The commissioners shall examine the machine accordingly and shall make and file in the office of the secretary of state their report of the examination, which report shall state whether in their opinion the kind of machine so examined can be safely used by such voters at elections, under the conditions prescribed in this article. If the report states that the machine can be so used, it shall be deemed approved, and machines of its kind may be adopted for use at elections as herein provided. When the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency or capacity shall not render necessary a re-examination or re-approval thereof. Any form of voting machine not so approved, or which has not been hereto-

Source.—
Former
election
law, § 301,
in part.

fore examined by the voting machine commissioners and reported on pursuant to law and its use specifically authorized by law, cannot be used at any election.

Source.—
Former
election
law, § 332.

§ 242. **Requirements of voting machine.** A voting machine approved by the state board of voting machine commissioners must be so constructed as to provide facilities for voting for such candidates as may be nominated. It also must permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in absolute secrecy. It also must be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office, except where a voter is lawfully entitled to vote for more than one person for that office, and it must afford him an opportunity to vote for as many persons for that office as he is by law entitled to vote for and no more, at the same time preventing his voting for the same person twice.

It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election is completed, any movement of the voting or registering mechanism is absolutely prevented. It also may be provided with a separate ballot in each party column or row containing only the words "presidential electors," preceded by the party name.

Source.—
Former
election
law, § 333,
as amended
by L. 1922,
ch. 115.

§ 243. **Adoption of voting machine.** The board of elections of the city of New York and the common council or other legislative governing body of each other city of the first class shall, and the common council or other legislative governing body of any other city, the town board of any town, or the board of trustees of any village may adopt for use at elections any kind of voting machine approved by the state board of voting machine commissioners, or the use of which has been specifically authorized by law; and thereupon such voting machine may be used at any or all elections, other than primary elections, held in such city, town or village, or in any part thereof, for voting, registering and counting votes cast at such elections. Voting machines of different kinds may be adopted for different districts in the same city, town or village. If, on or before the first day of April, nineteen hundred and twenty-two, such board of elections, common council or legislative governing body, as the case may be, of a city of the first class, shall have failed to agree thereon, the secretary of state, within ten days thereafter, shall adopt a kind or kinds of voting machine for use at elections in such cities. A sufficient number of voting machines shall thereafter be provided in the manner prescribed in section two hundred and forty-six so that at the general election in nineteen hundred and twenty-two polling places in such cities to the extent of at least fifteen per centum shall be equipped therewith. At least an additional forty per centum of the polling places in such cities shall be so equipped with voting machines for use at the general election in nineteen

hundred and twenty-three. All the remaining polling places in such cities shall be so equipped with voting machines for use at the general election in nineteen hundred and twenty-four.

§ 244. **Experimental use of voting machine.** The authorities of a city, town or village authorized to adopt a voting machine may provide for the experimental use, at an election in one or more districts, of a machine which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

Source.—
Former
election
law, § 294.

§ 245. **Providing machines, generally.** Except as otherwise provided in the next section with respect to cities of the first class, the local authorities adopting a voting machine shall, as soon as practicable thereafter, provide for each polling place one or more voting machines in complete working order, and shall thereafter preserve and keep them in repair. If it shall be impracticable to supply each election district with a voting machine or voting machines at any election following such adoption, as many shall be supplied as it is practicable to procure and the same may be used in such election district or districts within the city, town or village as the officers adopting the same may direct.

Source.—
Former
election
law, § 295.

§ 246. **Providing machines in first class cities.** Whenever a kind or kinds of voting machine shall have been or hereafter shall be adopted for use in a city of the first class and such machine shall not have been provided on or before the first day of May, nineteen hundred and twenty-two, the board of elections of the city of New York, or the common council or other legislative governing body of any other city of the first class, as the case may be, shall provide a sufficient number of voting machines to satisfy the requirements of section two hundred and forty-three of this chapter. Such board of elections of the city of New York or common council or other legislative governing body shall determine on or before the first day of July the election districts in which such voting machines shall be installed in each year, but if such board of elections, common council or body, are unable to agree upon the districts, such determination shall be made by the secretary of state within ten days thereafter. The voting machine adopted shall be thereafter used in the districts so determined upon, except that if for any reason it shall be impossible to obtain the full number necessary, so many shall be used as may be available. In the event that such board of elections, common council or other legislative governing body shall not agree upon and execute a contract or contracts for the purchase of the necessary voting machines for the year nineteen hundred and twenty-two on or before the fifteenth day of May, nineteen hundred and twenty-two, and for nineteen hundred and twenty-three and nineteen hundred and twenty-four, on or before the first day of March in each of such years respectively, such contract or contracts shall be awarded, made and executed by the secretary of state on approval of the attorney-general as to form. The expense of making and entering into such contracts, including the preparation and printing of specifications, and also all payments for voting

Source.—
New.

machines to be made thereunder, shall be chargeable to the city, and it shall be the duty of the comptroller or other chief fiscal officer of the city to pay the same upon the certificate of the local board, body or officer making such contract, or upon the certificate of the secretary of state in the event that such contract be made by him. For the purpose of providing funds with which to pay such sums the comptroller or other chief financial officer of such city is hereby authorized and directed to issue and sell special revenue bonds or other similar obligations of such city and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of money necessary to be raised by taxation to carry on the business of such city, and shall be made a part of the tax levy for the year next following the year in which such bonds are issued. No provision of any city charter or other law or ordinance governing the purchase of patented articles shall be deemed to apply to the purchase of voting machines pursuant to the provisions of this section.

Source.—
Former
election
law, § 297.

§ 247. **Payment for machines.** The local authorities, on the adoption and purchase of a voting machine, shall provide for the payment therefor in such manner as they may deem for the best interest of the locality and may for that purpose issue bonds, certificates of indebtedness or other obligations which shall be a charge on the city, town or village. Such bonds, certificates or other obligations may be issued with or without interest, payable at such time or times as the authorities may determine, but shall not be issued or sold at less than par.

Source.—
Former
election
law,
§§ 6, 534.

§ 248. **Enrollment booths and boxes for absentee voters' ballots.** The board or body charged with the duty of designating polling places, shall provide the following booths and boxes, at a general election, for election districts where voting machines are used: in an election district where registration is not required to be personal as to all of the voters, two booths, for use by voters in marking enrollment blanks; in any election district, the necessary box or boxes for the reception of absentee voters' ballots, unless such board or body shall have ascertained from the board of elections that no such ballots have been received for that district.

Source.—
Former
election
law, § 297.

§ 249. **Form of ballots on voting machines.** All ballots shall be printed in black ink on clear, white material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party emblem for each political party represented on the machine, which has been duly adopted by such party in accordance with this chapter, and the party name or other designation, and a designating letter and number shall be affixed to the names, or, in case of presidential electors, to the list of candidates of such party. The titles of offices may be arranged horizontally, with the names of candidates for an office arranged vertically under the title of the office, or the titles of offices may be arranged vertically, with the names of candidates for an office arranged horizontally opposite the title of the office,

each office to occupy as many columns or rows on the machine as the number of candidates to be elected to that office. The names of all candidates nominated by any party for an office shall always appear in the row or column containing generally the names of candidates nominated by such party for other offices. When a person has been nominated for an office by one political party and has also been nominated for that office by one or more independent bodies, his name shall appear only in the row or column containing generally the names of candidates for other offices nominated by such party, and the name and emblem of such party and of each of such independent bodies shall appear in connection with his name. When the same person has been nominated for the same office to be filled at the election by more than one party, the voting machine shall be so adjusted that his name shall appear in each row or column containing generally the names of candidates for other offices nominated by any such party; and if such candidate has also been nominated by one or more independent bodies, his name shall appear only in each row or column containing generally the names of candidates for other offices nominated by any such party, and the name and emblem of each such independent bodies shall appear in one such row or column to be designated by the candidate in writing filed with the officer charged with the duty of providing ballots, or if such person shall fail to so designate, the names and emblems of such independent bodies shall appear in such row or column as such officer shall determine. If any person shall be nominated for any office only by one or more independent bodies, his name shall appear but once upon the machine in the place designated by the officer charged with the duty of providing ballots, and in connection with his name there shall appear the name and emblem of each independent body nominating him. Provided, however, the name of a person who is nominated for the office of governor, or the name of a person who is nominated by a party or parties for the office of member of assembly, shall appear on the ballot labels of the machine as many times as there are parties or independent bodies nominating him, and there shall be a separate voting and registering device at each place in which such name shall appear. The machine shall be so adjusted that when one or more knobs, equaling the total number of persons to be elected to that office shall have been operated, all other knobs used in connection with that office shall be thereby locked.

§ 250. **Sample ballots.** The officers or board charged with the duty of providing ballots for any polling place shall provide therefor two sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election. Such sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine. Such sample ballots shall be open to public inspection at such polling place during election day. At all general elections where voting machines are used there may be furnished a sufficient number of such sample

Source.—
Former
election
law, § 254.

ballots of a reduced size, one of which sample ballots may be mailed by the board of elections to each registered voter at least three days before the election, or, in lieu thereof, a copy of such sample ballot may be published at least once within one week preceding the election in newspapers representing at least two political parties.

Source.—
Former
election
law, § 400.

§ 251.¹ **Preparation of voting machines by boards of elections.** It shall be the duty of the board of elections of each county and in the city of New York, in which voting machines are to be used, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, to examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered metal seal.

The board of elections may appoint as many custodians of voting machines as may be necessary for the proper preparation of the machines, except that there may be only one custodian for each one hundred voting machines or major fraction thereof. Such custodian or custodians shall, under the direction of the board of elections, have charge of and represent the board of elections during the preparation of the voting machines and serve at the pleasure of the board of elections. Before preparing the voting machines for any election, written notices shall be mailed to the chairmen of the county committees of the two parties entitled to representation on a board of inspectors of election stating the times when and place or places where the machines will be prepared; at which times and place or places, one representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. The custodian or custodians of voting machines and the party representatives shall take the constitutional oath of office, which shall be filed in the office of the board of elections. It shall be the duty of such party representatives to be present at the preparation of the voting machines for election and see that the machines are properly prepared and that all registering counters are set at zero (000). When the machines have been prepared for election, it shall be the duty of such custodian or custodians and party representatives, to make a certificate in writing which shall be filed in the office of the board of elections, stating the number of machines, whether or not all the machines are set at zero (000), the number registered on the protective counter, if one is provided, and the number on the metal seal with which the machine is sealed.

Such custodians and party representatives shall perform their duties under the direction of the board of elections. No custodian or other employee of the board of elections shall in any way

¹ Section 251 is amended by L. 1922, ch. 631, post.

prevent free access and examination of all voting machines which are to be used at the election, by the duly appointed party representatives, and the board of elections and its employees shall afford the party representatives every facility for the examination of all registering counters, protective counters and public counters of each and every voting machine.

It shall be the duty of the board or officer charged by law with the duty of equipping the polling places to cause a voting machine or machines, prepared as above provided to be delivered, subject to the supervision of the board of elections, at each of the respective polling places in which they are to be used, at least one hour before the time set for the opening of the polls. After the machine has been delivered, it shall be set up in the proper manner for use at the election, and it shall be the duty of the local authorities to provide ample protection against molestation and injury to the machine. Every voting machine shall be furnished with a lantern or a proper substitute for one, which shall give sufficient light to enable voters while in the booth to read the ballot labels, and suitable for the use of election officers in examining the counters. The lantern shall be prepared and in good order for use before the opening of the polls. All voting machines used in any election shall be provided with a screen and hood or curtain which shall be so made and adjusted as to completely conceal the voter and his action while voting. The custodian or custodians of voting machines and party representatives shall be paid for their services such an amount as shall be fixed by the board of elections, which shall not, however, exceed the compensation per day of inspectors of election at a general election.

§ 252. **Instruction of election officers.** Not less than ten days before each general election, except in a county in which special provision is made by this chapter for the holding of a school of instruction of election officers, the board of elections shall cause each board of inspectors to be instructed in the use of the machine, and in the duties of inspectors of election in connection therewith; and it shall give to each inspector of election who has received such instruction and is fully qualified to properly conduct the election with the machine a certificate to that effect. For the purpose of giving such instruction, the board shall call such meeting, or meetings, of the inspectors of election as shall be necessary. The inspectors of election of each election district in which a voting machine is to be used, shall attend such meeting, or meetings, to be conducted by members or employees of the board of elections. Each inspector of election who shall qualify for and serve in the election, shall be paid one dollar for the time spent in receiving such instruction, and also his car or railroad fare in going to and returning from each meeting held outside of the town or city in which he resides, in the same manner and at the same time as he is paid for his services on election day. No inspector of election shall serve in any election at which a voting machine is used unless he shall have received such instruction and is fully qualified to perform his duties in connection

Source.—
Former
election
law, § 402.

with the machine and has received a certificate to that effect from the board, signed by a member of the board or its employee thereco authorized; provided, however, that this shall not prevent the appointment of an inspector of election to fill a vacancy in an emergency. The person giving the instruction shall without delay file a report with the board of elections, stating that he has instructed the election officers named in the certificate and the time and place where such instruction was given.

Source.—
Former
election
law, § 402.

§ 253. **Instruction of voters before election.** In all places where voting machines are to be used one or more of such machines which shall contain the ballot labels, showing the party emblems and title of offices to be voted for, and which shall so far as practicable contain the names of the candidates to be voted for, shall be placed on public exhibition in some suitable place, in charge of a competent instructor, for at least three days during the thirty days next preceding the election; but no voting machine which is to be assigned for use in an election shall be used for such instruction after having been prepared and sealed for the election. During such public exhibition, the counting mechanism of the machine shall be concealed from view and the doors may be temporarily opened only when authorized by the board or official having charge and control of the election.

Source.—
Former
election
law, § 404.

§ 254. **Distribution of ballots and stationery.** The ballots and stationery shall be delivered to the board of inspectors of each election district before ten o'clock in the forenoon of the day next preceding the election.

Source.—
Former
election
law, § 407,
in part.

§ 255. **Opening of the polls; certain preliminaries.** The inspectors of election, and the clerks if any, of each election district, shall meet at the polling place at least three-quarters of an hour before the time set for opening the polls of the election. The inspectors shall cause to be posted conspicuously within the polling place the two instruction cards and shall see to the display of the American flag and the placing of distance markers as provided in the preceding article. They shall arrange within the guard-rail the furniture and voting machine for the conduct of the election and shall place the registers, books, blanks, sample ballots and stationery so that they may be ready and convenient for use. They shall see that the lantern for the voting machine is in good order for use, and that it is lighted, if that is necessary, in order that the names upon the ballots shall be clearly visible. At the opening of the polls, they shall cause to be made a proclamation thereof and of the time when the polls will close.

Source.—
Former
election
law, § 407,
in part.

§ 256. **Examination of machine by inspectors on election day and final preparation thereof.** The keys to the voting machine shall be delivered to the inspectors at least three-quarters of an hour before the time set for the opening of the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, the number of the seal, and, if provided with a protective counter, the number registered on such counter, as reported by the voting machine custodian. The envelope containing the keys shall not be opened until at least one inspector from each of the two parties shall be present in

the polling place and shall have examined the envelope to see that it has not been opened. Before opening the envelope, all the election officers present shall examine the number on the seal on the machine, also the number registered on the protective counter, if one is provided, and shall see if they are the same as the numbers written on the envelope containing the keys. If found not to agree, the envelope must not be opened until the voting machine custodian, or other authorized person, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged. If the numbers on the seal and protective counter, if one is provided, are found to agree with the numbers on the envelope the inspectors shall open the doors concealing the counters, and before the polls are open, each inspector shall carefully examine every counter and see that it registers zero, and allow the watchers to examine them. The inspectors shall insert in their proper places on the voting machine the ballots containing the names of the offices and nominated candidates, if this has not previously been done. The inspectors shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal, the number registered on the protective counter if one is provided, if all of the counters are set at zero (000), if the public counter is set at zero (000) and if the ballot labels are properly placed in the machine. The machine shall remain locked against voting until the polls are formally opened, and shall not be operated except by voters in voting. If any counter is found not to register zero (000), the inspectors of election shall immediately notify the custodian, who shall if practicable adjust the counters at zero (000), but if it shall be impracticable for the custodian to arrive in time so to adjust such counters before the time set for opening the polls, the inspectors shall immediately make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post the same upon the wall of the polling place, where it shall remain throughout election day, and in filling out the statement of canvass they shall subtract such number from the number then registered thereon.

§ 257. **General provisions as to conduct of election.** One inspector shall attend the voting machine. The other inspectors shall have charge of the registers, subject to participation by any inspector in the decision of a question. Of the inspectors in charge of the registers, one shall attend to comparing the signatures of voters, when that is necessary. The assignment of inspectors to attend machine and compare signatures shall be made and may be changed as provided in section one hundred and ninety-five, for the division of duties therein mentioned, and the provisions of that section in relation to the assignment of duties to clerks, shall apply where two voting machines are used and there are clerks.

The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and watchers. The voting machine shall be placed at least four feet from the table

Source.—
Former
election
law, § 409.

used by the inspectors in charge of the registers. The guard-rail shall be at least three feet from the machine, with openings to admit voters to and from the machine. The voting machine shall be so located in the polling place that, unless its construction requires otherwise, the ballot labels on the face of the machine can be seen plainly by the election officers and the party watchers when not in use by voters. The election officers shall not themselves be, or allow any other person to be, in any position or near any position, that will permit one to see or ascertain how a voter votes, or how he has voted. The election officer attending the machine shall inspect the face of the machine after each voter has cast his vote, to see that the ballot labels are in their proper places and that the machine has not been injured or tampered with. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the election officers and attached to the returns.

Source.—
Former
election
law, §§ 411,
412.

§ 258. Instruction of voters on election day; assistance to voters. For the instruction of voters, there shall be, so far as practicable, in each polling place, a mechanically operated model of a portion of the face of the machine. Such model, if furnished, shall be located during the election on the inspectors' table or in some other place which the voters must pass to reach the machine, and each voter, before entering the machine, shall be instructed regarding its operation and such instruction illustrated on the model and the voter given opportunity to personally operate the model. The voter's attention also shall be called to the diagram of the face of the machine so that the voter can become familiar with the location of the questions and the names of the offices and candidates. If any voter, after entering the voting machine booth and before the closing of such booth, shall ask for further instructions concerning the manner of voting, two inspectors of opposite political faith shall give such instructions to him; but no inspector or other election officer or person assisting a voter shall in any manner request, suggest or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question or proposition. After giving such instructions, the inspectors shall retire and such voter shall then close the booth and vote as in the case of an unassisted voter. The provisions of the preceding article in relation to assistance to disabled or illiterate voters also shall apply where voting machines are used, and the word "booth" when used in such provisions shall be interpreted to include the ballot machine inclosure or curtain.

Source.—
Former
election
law, § 410.

§ 259. Manner of voting. The inspectors shall admit within the guard-rail but one voter at a time and shall ascertain whether he is entitled to vote. If he is found to be entitled to vote, and not otherwise, he shall be admitted within the ballot machine inclosure or curtain and be permitted to vote. The operating of the voting machine by the voter while voting shall be secret and obscured from all other persons except as provided by this

chapter in cases of voting by assisted voters. No voter shall remain within the voting machine booth longer than three minutes, and if he shall refuse to leave it after the lapse of three minutes, he shall be removed by the inspectors.

§ 260. Voting for person other than a nominated candidate. Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office are referred to in this article as irregular ballots. Where two or more persons are to be elected to the same office, and each candidate's name is placed upon or adjacent to a separate key or device, and the machine requires that all irregular ballots voted for that office be deposited, written or affixed in or upon a single receptacle or device, a voter may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear. Source.—
Former
election
law, § 408.

In voting for presidential electors, a voter may vote an irregular ticket made up of the names of persons in nomination by different parties, or partially of names of persons so in nomination and partially of names of persons not in nomination, or wholly of names of persons not in nomination by any party. Such irregular ballot shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose.

With these exceptions, no irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any irregular ballot so voted shall not be counted. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

§ 261. Unofficial ballots; repair of machine or use of paper ballots. If the official ballots for an election district at which a voting machine is to be used, required to be furnished by or to any town, or city clerk, or board, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city, or such board, or the election inspectors of such district, shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable, and the inspectors shall cause the ballots so substituted to be used at the election in the same manner, as near as may be, as the official ballots. Such ballots so substituted shall be known as unofficial ballots. If any voting machine being used in any election shall become out of order during such election, it shall if possible be repaired or another machine substituted as promptly as possible, but in case such repair or substitution cannot be made, paper ballots, printed or written, and of any suitable form, may be used for the taking of votes, and for such purpose the reduced sample ballots may be employed. Source.—
Former
election
law, §§ 406,
406a.

§ 262. Canvass of vote and proclamation of result. As soon as the polls of the election are closed, the inspectors of election thereat shall immediately lock the voting machine against voting. The inspectors then shall sign a certificate stating that the machine has been locked against voting and sealed; the number of voters as shown on the public counters; the number on the seal; the Source.—
Former
election
law, §§ 413,
415, 536.

number registered on the protective counter, if one is provided; and that the voting machine is closed and locked. The inspectors then shall open the counting compartments in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board of inspectors shall, under the scrutiny of an inspector of a different political party, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. The counter shall not in the case of presidential electors be read consecutively along the party row or column, but shall always be read along the office columns or rows, completing the canvass for each office. If a separate ballot in each party column or row entitled "presidential electors" is provided, a vote for such ballot shall operate as a vote for all the candidates of such party for presidential electors. The vote as registered shall be entered on the statements of canvass in ink, by two inspectors of opposite political faith from each other, but not including the chairman, in the same order on the space which has the same designating number and letter, after which the figures shall be verified by being called off in the same manner from the counters of the machine by an inspector of opposite political faith from the chairman. The return of the canvass shall then be filled out, which shall show the total number of votes cast for each office, the number of votes cast for each candidate, as shown on his counter, and the number of votes for persons not nominated, and the statement shall be signed by each inspector. The counter compartment of the voting machine shall remain open until the official returns and all other reports have been fully completed and verified by the board of inspectors. During such time any candidate or duly accredited watcher who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the chairman of the board of inspectors who shall read the name of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the board, after which the doors of the voting machine shall be closed and locked. Before adjourning the board shall, with the seal provided therefor, so seal the operating lever of the machine that the voting and counting mechanism will be prevented from operation. If absentee voters' ballots have been voted, such ballots shall then be canvassed and tallied, the vote thereon for each candidate announced and added to the vote as recorded on the

statement of votes cast by machine and a final proclamation made as to the total vote received by each candidate. Absentee voters' ballots and irregular ballots, inclosed in properly sealed packages respectively, and properly indorsed shall be filed with the original statement of canvass. The inspector filing the returns shall deliver to the said board or officer from which or whom they were received the keys of the voting machine, inclosed in a sealed envelope having indorsed thereon a certificate of the inspectors stating the number of the machine, the election district, ward or assembly district where it has been used, the number on the seal and the number on the protective counter, if any.

§ 263. **Statements of canvass.** In each election district where voting machines are used, statements of canvass shall be printed to conform with the type of voting machine used, of a form approved by the secretary of state. The designating number and letter on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The form of such statement, for a general election, also shall provide for the entry of the number of votes for each candidate, or upon each question, cast by absentee voters' ballots and the total number of votes, by such ballots and by machine, for each candidate and upon each question. Two such statements shall be used, in each such election district, and, at a general election at which city or town offices are to be filled, an additional statement if the board of elections shall so require. No tally sheets shall be provided or used in any such district, except for votes on absentee voters' ballots at a general election, and the secretary of state shall devise a form of tally sheet to be used for that purpose, with provision for making the tallies as to all offices, or all questions, on one sheet, so far as practicable, and without individual spaces for individual tally marks.

Source.—
Former
election
law, § 405.

§ 264. **Preservation of ballots and of record of the machine.** The voting machine shall remain locked against voting for the period of thirty days and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the election, except as provided by section two hundred and sixty-six and except that it may be opened and all the data and figures therein examined upon the order of any court or judge of competent jurisdiction or may be opened by direction of a committee of the senate or assembly to investigate and report upon contested elections of members of the legislature voted for by the use of such machine and such data and such figures examined by such committee in the presence of the officer having the custody of such machine. Irregular ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents examined only upon order of a court or judge of competent jurisdiction, or by direction of such committee of the senate and assembly if the ballots relate to the election under investigation by such committee, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

Source.—
Former
election
law, § 414.

Source.—
Former
election
law, § 415.

§ 265. **Custody of voting machines and keys.** The inspectors shall inclose the keys of the machine in an envelope, supplied with the keys, on which shall be written the number of the machine and the district and ward where it has been used, securely seal the envelope, indorse it and return it to the officer from whom the keys were received. The number on the seal and the number registered on the protective counter, if so provided, shall be written on the envelope containing the keys. The local authorities adopting the machines shall have the custody thereof when not in use at an election, and shall preserve and keep them in repair. All keys for voting machines shall be kept securely locked by the officials having them in charge. A public officer who, by any provision of law, is entitled to the custody of a machine for any period of time, shall be entitled to the keys therefor while such machine is in his charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine; and all election officers, or persons entrusted with such keys for election purposes, or in the preparation of the machine therefor, shall not retain them longer than necessary to use them for such legal purpose. All machines shall be boxed and collected as soon after the close of the election as possible, and the machines, and the boxes for the machines, shall at all times be stored in a suitable place.

Source.—
Former
election
law, § 416.

§ 266. **Provision for re-canvass of vote.** Whenever it shall appear that there is a discrepancy in the returns of any election district, the county board of canvassers shall summon the inspectors of election thereof, and said inspectors, in the presence of said board of canvassers, or a bi-partisan committee thereof, shall make a record of the number on the seal and the number on the protective counter, if one is provided, open the counter compartment of such machine, and, without unlocking such machine against voting, shall re-canvass the vote cast thereon. Before making such re-canvass the county board of canvassers shall give notice in writing to the voting machine custodian and to the county chairman of each party or independent body which shall have nominated candidates for the election of the time and place where such re-canvass is to be made; and each of such parties or nominating bodies may send two representatives to be present at such re-canvass. If, upon such re-canvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the county board of canvassers, or such committee thereof, with the assistance of the custodian of the machine, in the presence of the inspectors of election and the authorized representatives of the several parties or nominating bodies, shall unlock the voting and counting mechanism of the machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the returns from such machine. Before testing the counters, they shall be reset at zero (000) after which each counter shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a state-

ment in writing, giving in detail the result thereof, and such statement shall be witnessed by the persons present and shall be filed with the secretary of the county board of canvassers. However, nothing contained in this section shall authorize any change in the returns filed by inspectors of election in any election district nor authorize any board of canvassers in anywise to consider or act upon any re-canvass of votes made pursuant thereto.

§ 267. **Application of other articles and penal law.** The provisions of the other articles of this chapter apply as far as practicable to voting machines, except as herein provided. The provisions of law relating to misconduct at elections also shall apply to elections with voting machines. Source —
Former
election
law, § 417,
in part.

§ 268. **Definitions.** 1. The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law. Source.—
Former
election
law, § 420.

2. The word "ballot" as used in this article, (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate and the emblem of the party organization by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition with the word "Yes" for voting for any question or the word "No" for voting against any question.

3. The term "question" means any constitutional amendment, proposition, or other question submitted to the voters at any election.

4. The term "ballot label" means the printed strips of cardboard containing the names of the candidates nominated, and the questions submitted.

5. The term "irregular ballot" means a vote cast, by or on a special device, for a person whose name does not appear on the ballot labels.

6. The term "protective counter" means a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever.

§ 269. **Saving clause.** Nothing herein shall be deemed to prohibit the adoption or use of any voting machine at any election within any town, city or village that has adopted the same prior to the tenth day of December, nineteen hundred and thirteen, if the mechanism is or may be made adjustable to conform to the grouping of candidates under the title of the office, but the method of conducting an election therewith shall be in the manner prescribed by this chapter. Source.—
Former
election
law, § 421.

ARTICLE 10.

CANVASS OF RESULTS.

Section 270. Canvass of primary returns by board of elections; notices to delegates; certificates.

271. Canvass of primary returns by secretary of state; convention rolls.

Section 272. County boards of canvassers; board of canvassers of the city of New York and the counties therein.

273. Canvass of election district returns of general and special elections.

274. Statements of canvass by canvassing boards.

275. Determinations by county and city canvassing boards.

276. Transmission of statements of canvassing boards to secretary of state.

277. Canvass of statements of general and special elections by state board of canvassers.

278. Proceedings by boards of canvassers to carry into effect a court order.

279. Record in office of secretary of state of county officers elected.

Source.—
Former
election
law, § 89.

§ 270. Canvass of primary returns by board of elections; notices to delegates; certificates. 1. The board of elections shall canvass the returns of primary elections filed with it. It shall canvass first the votes of the delegates and alternates to state and judicial district conventions and complete such canvass at the earliest time possible. It shall complete the canvass otherwise within one hundred and twenty hours from midnight of the day upon which the primary election is held. Upon the completion of the canvass the board shall make and file in its office tabulated statements signed by the members of such board or a majority thereof of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes for nomination for a public office or for election to a party position voted for wholly within the political unit for which such board is acting, shall be the nominee of his party for such office or elected to such party position and the board, if requested by a candidate elected to a party position, shall furnish to him a certificate of election.

2. The board forthwith upon the completion of the canvass for delegates and alternates to a state or judicial district convention, shall transmit to the secretary of state a certificate stating the name and residence of each delegate and alternate elected; except that, in respect of a judicial district convention in the first judicial district, the board of elections, instead of transmitting such certificate, shall make up the roll of the convention and transmit it to the chairman or secretary of the committee which, by party rules, is empowered to fix the time and place of the convention. The board of elections shall send by mail to each delegate and alternate elected a notice of his election.

3. The board forthwith, upon the completion of the canvass, shall file in the office of the secretary of state a certified copy of its tabulated statements as to the votes cast as to each nomination or party position voted for in a district greater than the political unit for which the board is acting.

Source.—
Former
election
law, § 89.

§ 271. Canvass of primary returns by secretary of state; convention rolls. The secretary of state upon receipt by him from

boards of elections of the tabulated statements of votes at a primary election required to be filed with him shall proceed forthwith to canvass such statements. Upon the completion of the canvass he shall make, certify and file in his office tabulated statements of the number of votes cast for all the candidates for nomination to each public office or for election to each party position, and the number of votes cast for each such candidate. The candidate receiving the highest number of votes shall be the nominee of his party for such office or shall be elected to party position, as the case may be, and the secretary of state, if requested by a candidate elected to a party position upon the returns canvassed by the secretary of state, shall furnish to him a certificate of election. From the certificates of boards of elections as to the delegates and alternates elected to a state or judicial district convention of any party, other than a judicial district convention in the first judicial district, the secretary of state forthwith shall make up the roll of each such convention in duplicate and transmit it, if for a state convention, to the chairman and secretary of the state committee of the party, and if for a judicial district convention, to the chairman and secretary of the committee which, by party rules, is empowered to fix the time and place of the convention.

§ 272. County boards of canvassers; board of canvassers of the city of New York and the counties therein. Outside of the city of New York, the board of supervisors of each county shall be the county board of canvassers of such county. Such board also shall be the city board of canvassers of any city or cities within the county for a city election held with the general election, except as otherwise provided in local acts enacted after the eighth day of June, nineteen hundred and ten, and except also that the council of the city of Buffalo shall be the city board of canvassers of such city. The board of elections of the city of New York shall be the county board of canvassers of each of the counties in such city and the city board of canvassers of such city. The term "canvassing board" as used in this article, shall mean the county board of canvassers, including the board of elections of the city of New York sitting as such a county board and as a city board of canvassers. In the city of New York, the secretary of the board of elections, or, if he be absent or unable to act, a member or chief clerk designated by the board, and elsewhere the president of the board of elections, or, if he be absent or unable to act, the secretary of such board, or, in a county having a single commissioner of elections, such commissioner, or, in a county in which the county clerk is the board of elections, such clerk or a deputy clerk designated by him, shall be the secretary of the canvassing board. Each canvassing board shall meet on the Tuesday next after each election of public officers, held within its jurisdiction, except an election of town, city, village or school district officers held at a time other than that of a general election, or before that day and not earlier than the Thursday following the election, if the secretary shall issue a call therefor. The

Source.—
Former
election
law, § 430.

canvassing board shall meet at the place where it usually meets in other capacities, but in the city of New York its duties may be performed in any or all of the offices of the board of elections. The canvassing board shall organize by selecting one of its members as chairman. The secretary shall administer the constitutional oath of office to the chairman, who shall then administer such oath to the secretary and each member of the board. A majority of the members of the board shall constitute a quorum, but if a majority shall not attend on the day fixed for the meeting, the members present shall elect the chairman and adjourn to a stated hour of the next day.

Source.—
Former
election
law, §§ 431,
432.

§ 273. **Canvass of election district returns of general and special elections.** The board of elections with which they were filed shall produce or deliver to the canvassing board all the returns, with tally sheets, if any, annexed, containing the statement of canvass received from inspectors of election for election districts within the county, or each county, for which such canvassing board is constituted. If a return for any such election district cannot be so produced or delivered, the canvassing board shall require the other return, filed with a county, city or town clerk, to be produced. The canvassing board shall then proceed to canvass the vote cast within the county, or, in the city of New York, within each county in the city; provided, however, that a county board of canvassers shall not canvass the votes for town officers or upon town questions or appropriations except in a county where, by the provisions of the town law or other statute, such board is required to canvass the same. The canvass of votes for the office of United States senator to fill a vacancy shall be completed within ten days after the election. If, during the canvass, there shall clearly appear, in the return for any district filed with the board of elections, to be any omission or clerical mistake, the canvassing board may cause to be produced and may examine the return filed with the county, city or town clerk, to ascertain the action of the election officers, or, where any such omission or mistake clearly appears in any return, or two returns for the same district examined by the board are inconsistent, the canvassing board may summon the election officers before the board, and such officers shall meet forthwith and make any necessary correction, in order that their canvass may be correctly stated, but they shall not alter any decision theretofore made by them. The canvassing board may adjourn from day to day, not exceeding three days in all, for the purpose of receiving corrected statements.

Source.—
Former
election
law, § 427.

§ 274. **Statements of canvass by canvassing boards.** Upon the completion of the canvass the canvassing board shall make statements thereof showing separately the result as to each office or question. Each such statement shall set forth, in words written out at length, all votes cast for all the candidates for each office; the name of each candidate; the number of votes so cast for each, and, in the case of a candidate for governor or member of assembly who was nominated by two or more parties or inde-

pendent bodies, the number separately stated of votes cast for him as the candidate of each party or independent body by which he was nominated; and all votes so cast upon any proposed constitutional amendment or other proposition or question, and all the votes so cast in favor of and against the same respectively. In the city of New York, the board shall make no statement of the votes cast within a county therein for any candidate for the office of member of assembly, state senator or representative in congress voted for also in a county outside of such city.

Such statements shall be certified as correct over the signatures of the members of the board, or a majority of them, and such statements, together with any tabulation sheets showing the vote by election districts from which such statements were made, shall be filed in the office of the board of elections. To facilitate its work, the board of elections may cause copies of such tabulation sheets to be printed in pamphlet form. Statements of the canvass as made by inspectors and used by the canvassing board shall be returned to the officer or board from whom or which they were received. The secretary of the canvassing board shall file a report of the canvass with the board of supervisors, except in the city of New York.

§ 275. Determinations by county and city canvassing boards. Upon the completion of the statements required by the preceding section the canvassing board shall determine what person has by the greatest number of votes been elected to each office of member of assembly within the county, and each person elected by the greatest number of votes to each county office, and each person elected by the greatest number of votes to each city office of a city of which it is the city board of canvassers. The board of elections of the county of Hamilton shall transmit forthwith to the board of elections of the county of Fulton a certified copy of the statement filed in its office as to the votes cast in Hamilton county for candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the board of elections of Fulton county shall deliver the same forthwith to the Fulton county board of canvassers, who shall from such certified copy, and from its own statement as to the votes cast for the candidates for such office in Fulton county, determine what person was elected by the greatest number of votes to such office. The canvassing board also shall determine whether any proposition or question submitted only to the voters of the county, or only to the voters of a city of which it is the city board of canvassers, as the case may be, has by the greatest number of votes been adopted or rejected.

All such determinations shall be in writing and signed by the members of the canvassing board or a majority of them and filed and recorded in the office of the board of elections. Except in the city of New York, the board of elections shall cause a copy of such determinations, and of the statements filed in its office upon which such determinations were based, to be published once in each of the newspapers designated to publish election notices

Source.—
Former
election
law, § 432.

and the official canvass. The statement of canvass to be published, however, shall not give the vote by election districts but shall contain only the total vote for a person, or the total vote for and the total vote against a proposition or question, cast within the county, or within the portion thereof, if any, in which an office is filled or proposition or question is decided by the voters if the canvass of the vote thereon devolves upon the county board of canvassers.

The board of elections shall prepare and forthwith transmit to each person determined by the canvassing board to have been elected a certified statement that such canvassing board declared him elected, naming the office.

Source.—
Former
election
law, § 439

§ 276. **Transmission of statements of canvassing boards to secretary of state.** The board of elections shall transmit by mail to the secretary of state and state comptroller each a certified copy of the statement of the canvassing board relating to the offices of electors of president and vice-president of the United States, United States senator, representatives in congress and state offices, except member of assembly, and as to the votes cast on any proposed constitutional amendment or other question submitted to all the voters of the state, within five days after the filing of such statements in the office of the board, and shall so transmit certified copies of any statement relating to the office of United States senator, when the election is to fill a vacancy, immediately after such filing. The comptroller, forthwith upon the receipt thereof, shall deliver such copy to the secretary of state. If any certified copy shall not be received by the secretary of state on or before the last day of November next following a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy, and the board of elections, immediately upon demand of such messenger at its office, shall make and deliver a certified copy to such messenger who shall deliver it forthwith to the secretary of state.

The board of elections shall transmit to the secretary of state within twenty days after a general election, and within ten days after a special election, a list of the names and residences of all persons determined by the canvassing board to be elected member of assembly or to any county office, and on or before the fifteenth day of December following an election of governor, a certified tabulated statement, by election districts, of the official canvass of the votes cast for candidates for governor, to include, in the case of a candidate who was nominated by two or more parties or independent bodies, a separate statement of the number of votes cast for him as the candidate of each party or independent body by which he was nominated.

Source.—
Former
election
law, §§ 441-
443.

§ 277. **Canvass of statements of general and special elections by state board of canvassers.** 1. The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer, to be known as the state board of canvassers, shall canvass the certified copies of the statements of the county board

of canvassers of each county. They shall canvass first the statements, if any, for the office of United States senator to fill a vacancy. Three members of the board shall constitute a quorum. The secretary of state shall call a meeting of the board at his office or at the office of the treasurer or comptroller, on or before the fifteenth day of December next after each general election and within forty days after each special election, to canvass such statements. If three members of the board shall not attend on a day appointed for a meeting of the board, the secretary of state shall notify the mayor and recorder of the city of Albany to attend such meeting and they shall attend accordingly and shall with the other such officers attending, constitute such board. The board may adjourn from day to day, not exceeding a term of five days. If any member of the board shall dissent from a decision of the board or shall protest against any of the proceedings of the board as irregular, he shall state such dissent or protest in writing signed by him setting forth his reasons and deliver it to the secretary of state, who shall file it in his office.

2. Upon the completion of the canvass the board shall make separate tabulated statements signed by the members of the board or a majority thereof of the number of votes cast for all the candidates for each office voted for, the number of votes cast for each of such candidates, the number of votes cast in each county for each of them, and if the voters of only a district of the state voted for any such candidate, the name and number of such district, the determination of the board as to the persons elected to office, the number of votes cast upon each proposed constitutional amendment or other proposition or question, the number of votes cast in favor of and against each respectively, and the determination of the board as to whether it was adopted or rejected.

3. Such tabulated statements shall be filed and recorded in the office of the secretary of state. Thereupon the secretary of state shall transmit a copy, certified by him, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected to such office. He shall prepare a general certificate under the seal of the state and attested by him as secretary thereof, addressed to the house of representatives of the United States, in that congress for which any persons shall have been chosen, of the due election of all persons chosen at that election as representatives of this state in congress, and shall transmit the same to the house of representatives at its first meeting. If any person so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements prepared by him.

§ 278. Proceedings by boards of canvassers to carry into effect a court order. 1. Upon the re-convening of the state board of canvassers or any county board of canvassers, or of the board of elections of the city of New York as a county or city board of canvassers, by order of a court of competent jurisdiction, for the purpose of correcting an error or of performing a duty

Source.—
Former
election
law, §§ 433-
436.

imposed by law or by an order of the court granted pursuant to law, the meeting for that purpose shall be deemed a continuance of its regular session, and any new or corrected statement, determination or certificate which is made to give effect to the order shall stand in lieu of the original statement, determination or certificate.

2. When a new or corrected statement or certificate, to give effect to an order of the court, shall vary from the original statement or certificate respecting the votes cast for an office as to which the state board of canvassers is required to canvass statements made by county boards, the board of elections forthwith shall transmit certified copies of the new or corrected statement or certificate to the secretary of state and state comptroller. The state comptroller, immediately upon receiving it, shall deliver his copy to the secretary of state. The secretary of state shall appoint a meeting of the state board of canvassers to be held in the city of Albany within five days after he has received such a certified copy. From such certified copy or copies, such board shall make a new statement as to the votes for such office cast in the state or political subdivision in which such office is filled, and shall determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of votes, duly elected to the office or offices. The state board of canvassers and the secretary of state shall respectively have the same powers and duties in respect of new or corrected statements that they have in respect of original statements.

Source.—
Former
election
law, § 444.

§ 279. **Record in office of secretary of state of county officers elected.** The secretary of state shall enter in a book to be kept in his office, the names of the respective county officers elected in this state, specifying the counties for which they were severally elected, and their places of residence, the offices to which they were respectively elected, and their terms of office.

ARTICLE 11

PRESIDENTIAL ELECTORS; UNITED STATES SENATORS; REPRESENTATIVES IN CONGRESS.

Section 290. Electors of president and vice-president.

- 291. Secretary of state to furnish lists of electors.
- 292. Meeting and organization of electoral college.
- 293. Vote of the electors.
- 294. Appointment of messenger.
- 295. Other lists to be furnished.
- 296. Compensation of electors.
- 297. United States senators.
- 298. Representatives in congress.

Source.—
Former
election
law, § 451.

§ 290. **Electors of president and vice-president.** At the general election in November preceding the time fixed by the law of the United States for the choice of president and vice-president

of the United States, as many electors of president and vice-president as this state shall be entitled to, shall be elected by general ticket, and each voter in this state shall have a right to vote for the whole number, and the several persons, to the number required to be chosen, having the highest number of votes shall be declared and be duly appointed electors.

§ 291. **Secretary of state to furnish lists of electors.** The secretary of state shall prepare three lists, setting forth the names of such electors, and the canvass under the laws of this state of the votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state board of canvassers; procure to the same the signature of the governor; affix thereto the seal of the state; and deliver the same thus signed and sealed to the president of the college of electors on the second Monday in January.

Source.—
Former
election
law, § 451.

§ 292. **Meeting and organization of electoral college.** The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock, noon, of that day, shall immediately at that hour fill, by ballot and by plurality of votes, all vacancies in the electoral college occasioned by the death, refusal to serve, or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

Source.—
Former
election
law, § 452.

§ 293. **Vote of the electors.** Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of this state. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon that lists of the votes of this state for president and vice-president are contained therein.

Source.—
Former
election
law, § 454.

§ 294. **Appointment of messenger.** The electors shall then, by a writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the lists so sealed up, and deliver the same to the president of the senate at the seat of government of the United States before the third Monday in the said month of January. In case there shall be no president of the senate at the seat of government on the arrival of the person intrusted with the lists of the votes of the electors, then such person shall deliver the lists of votes in his custody into the office of the secretary of state of the United States.

Source.—
Former
election
law, § 455.

§ 295. **Other lists to be furnished.** The electors shall also forward forthwith, by the post-office in the city of Albany to

Source.—
Former
election
law, § 456.

the president of the senate of the United States at the seat of government, and deliver forthwith to the judge of the United States court for the northern district of the state of New York, similar lists signed, annexed, sealed up and certified in the manner aforesaid.

Source.—
Former
election
law, § 457.

§ 296. **Compensation of electors.** Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile each way from his place of residence by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

Source.—
Former
election
law, § 449.

§ 297. **United States senators.** At the general election next preceding the expiration of the term of office of a United States senator from this state, a United States senator shall be elected by the people for a full term of six years. If a vacancy occur in the office of United States senator from this state in any calendar year less than thirty days prior to a general election, the governor shall make a temporary appointment to fill such vacancy until the first day of December in the succeeding calendar year. If such a vacancy occur in any calendar year thirty days or more prior to a general election, the governor shall make a temporary appointment to fill such vacancy until the first day of December in such calendar year. Such an appointment shall be evidenced by a certificate of the governor which shall be filed in the office of the secretary of state. At the time of filing such certificate, the governor shall issue and file in the office of the secretary of state a writ of election directing the election of a United States senator to fill such vacancy for the unexpired term at the general election next preceding the expiration of the term of such appointment.

Source.—
Former
election
law, § 450.

§ 298. **Representatives in congress.** Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in every even numbered year. If any such representative shall resign, he forthwith shall transmit a notice of his resignation to the secretary of state. If a vacancy shall occur in any such office, the clerk of the county in which such representative shall have resided at the time of his election forthwith shall transmit a notice thereof to the secretary of state.

ARTICLE 12.

SOLDIERS' AND SAILORS' ELECTIONS.

Section 300. Special polls in time of war.

301. General register of absent voters.

302. Poll books.

303. Official war ballot.

304. Official envelopes for war ballots.

305. Lists of nominations.

Section 306. Delivery of official war ballots, poll books, envelopes and supplies.

307. Polls of election.

308. Conduct of elections.

309. Voting otherwise than at poll of voter's command.*

310. Method of voting.

311. Count of the votes; transmission of returns.

312. Disposition of envelopes and ballots by secretary of state.

313. Public list of voters, by election districts.

314. Canvass of votes.

315. Canvass of returns by county boards.

316. Canvass by state board of canvassers.

317. Returns not made prior to certain dates not canvassed.

318. Certain provisions of penal law to apply.

319. General provisions concerning elections to apply; article to be liberally construed.

§ 300. **Special polls in time of war.** Whenever, in time of war, any qualified voter of this state shall be in the actual military service of this state or of the United States, in the army or navy thereof, and by reason thereof absent from his election district, such absent voter shall be entitled to vote as fully as if he were present at his place of residence in the manner hereinafter provided.

Source.—
Former
election
law, § 500.

§ 301. **General register of absent voters.** The secretary of state shall from information to be obtained by him from appropriate military or naval authorities, or otherwise, prepare a general register on cards, by counties, in which shall be entered the names of the voters of this state absent from their respective election districts in time of war in the actual military service of this state or of the United States in the army or navy thereof. The cards in each county group shall be arranged in the alphabetical order of the names of the voters. Such card register shall contain the name and residence of each such absent voter by street and number, if any, and the name of the county and city or town in which he resides, so far as the secretary of state can ascertain the same. The card for each such absent voter shall contain also the name or number or other designation of the regiment, company, troop, vessel or other command to which such voter is attached or assigned. It shall contain also the location of such command at the time of such entry, so far as the secretary of state can ascertain the same, unless there are military reasons for omitting such information.

Source.—
Former
election
law, § 501.

Such general register shall be a public record and shall at all reasonable times be open for inspection by any voter of this state. It is hereby made the duty of every public officer, and of every citizen, to furnish to the secretary of state such information as he may possess relating to such absent voters.

* So in original. [Does not conform to section heading.]

Source.—
Former
election
law, § 502.

§ 302. Poll books. The secretary of state shall cause to be prepared and printed in book form a sufficient number of poll books, at least two books for each poll, for the use of the inspectors of election at the polls of the elections held under the provisions of this article. Such poll books shall be in a form to provide for entering the number, name and residence of each voter, and the name of the county and city or town in which the persons voting at such poll reside or claim to reside, and the designation of the particular command to which each such person is attached or of which he forms a part. Upon the first page of each such poll book shall be printed the date and character of the election for which it is prepared, and blank spaces in which shall be written by the inspectors the place at which the poll was held, and the names and residences of the persons acting as inspectors of election thereat. Upon the page following the last page of each such poll book used for recording the names of voters at such poll, shall be printed forms of the constitutional oath of office to be taken by the inspectors of election and a blank certificate, to be signed by the inspectors at the close of the polls. Such certificate shall be substantially in the following form:

We, the inspectors of election for the general (or special) election held at (here follows the name of the place) on the day of, 19..., do hereby certify that the names of the persons recorded herein as having voted at such election, such persons numbering in all (here follows the number in figures and words), are all the persons who appeared before us and demanded to vote at such election, and took the oath required, and who voted at such election.

.....,
.....,
.....,
.....,

Inspectors of Election.

Source.—
Former
election
law, §§ 502,
504.

§ 303. Official war ballot. The secretary of state shall cause to be prepared and printed at least twice as many official ballots as there are voters absent from their respective election districts. All such ballots shall be uniform in size and in style of type, and the type and paper shall conform generally to that used for the regular official ballots prescribed by this chapter. At the head of the ballot shall be printed the following:

**“OFFICIAL WAR BALLOT OF THE STATE OF NEW
YORK (Year)**

Read instructions carefully!

INSTRUCTIONS

1. To vote for all the candidates of one party for all the offices named on this ballot for which the voter is entitled to vote, make a cross × mark within the circle under the emblem of that party.

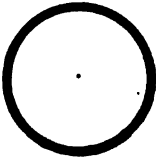
2. To vote for a certain person for a particular office, unless he is the candidate of a party under whose emblem you have made your mark in a circle, make a cross X mark in a voting square opposite his printed name, or, if his name is not printed, write it in the blank space.

3. The blank space for writing in a name is under the title of the office, or, where the names of candidates for the office are printed, is just below such printed names.

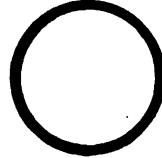
4. If two or more persons are to be elected to the same office, and you vote for a certain person or persons for that office, by individual voting marks or writing in a name or names, your vote, as to that office, will count only for the persons so indicated."

Below such instructions there shall be a horizontal line, and below such line shall appear the emblems of the parties, with a circle under each emblem. Each circle shall be approximately three-quarters of an inch in diameter and surrounded by the words "for a straight ticket mark within this circle." Such emblems, and accompanying circles, shall be arranged horizontally, in the order of priority, of the parties according to the preceding vote for governor, from left to right, thus:

(Insert emblem)



(Insert emblem)



Below the circles there shall be a horizontal line.

Below the horizontal line under the circles, the ballot shall be divided into columns. At an election at which one or more offices are to be voted for by all the voters of the state, there shall be printed, beginning in the first column, the names of all nominated candidates for all such offices, in appropriate sections, in the manner provided by this chapter for the regular official ballots, with titles of offices, section numbers, emblems, voting squares, names of parties and political organizations and blank spaces for writing in names of candidates, as provided for such official ballots.

Following such matter, in as many columns as the secretary of state may deem advisable, or beginning in the first column if none of the officers are to be voted for by all the voters of the state, there shall be printed the titles of all other offices, as near as may be, for which any voter may vote in any election district of the state at such election. Such offices shall be classified into judicial, legislative, county, city, ward and town offices, and otherwise, if there be offices of other classes. The title of each class shall be printed above the titles of offices in such class. Below the title of each office shall be a space or spaces for writing in the name or names of the person or persons for whom the

voter desires to vote if he chooses to vote in that manner. One-half inch space shall be allowed for the title of each class of offices and one-half inch space for the title of an office and writing in the name of a person as the voter's choice for such office. Each class of offices shall be separated by a heavy horizontal line across the column. Such offices and titles, except as to the spacing, shall be printed substantially as follows:

JUDICIAL OFFICES.

For justice of the supreme court for judicial district.

LEGISLATIVE OFFICES.

For representative in congress for congressional district.

 For state senator for senate district.

 For member of assembly for district of county.

COUNTY OFFICES.

For sheriff of county.

 For district attorney of county.

CITY OFFICES.

For mayor of the city of

WARD OR TOWN OFFICES.

For supervisors of ward or town of

 For justice of the peace, town of

In a year when a president of the United States is to be elected, a separate ballot for electors of president and vice-president shall be provided in the same form as the regular official ballot for such officers.

If at such election any proposed amendment to the constitution or other proposition or question is to be submitted to the vote of the voters of the state, an equal number of ballots for questions so submitted shall be provided in the same form as the regular official ballot for such amendment, proposition or question.

Source.—
 Former
 election
 law, § 504.

§ 304. Official envelopes for war ballots. The secretary of state shall also cause to be prepared and printed at least twice as many official envelopes as there are voters absent from their elec-

tion districts, as shown by such general register. Such envelopes shall be gummed, ready for sealing. Upon one side of such envelope shall be printed in substantially the following form the following:

" OFFICIAL WAR BALLOT

FOR

GENERAL ELECTION, NOVEMBER

(here insert the date of the election.)

Name of voter.....
Residence (street and number, if any).....
County of
City or Town of.....

.....,
Secretary of State."

Upon the other side of such envelope shall be printed the following oath:

" OATH OF ELECTOR

" I do swear (or affirm) that I have been a citizen of the United States for ninety days and am now of the age of at least twenty-one years, or will be on the (here insert the date of the election); that I will have been an inhabitant of the state of New York for one year next preceding this election and for the four months preceding such election a resident of the county of....., and am a qualified voter, residing at (street and number, if any), in the (city or town of); that I am in the actual military (or naval) service of the state of New York or of the United States, and at present attached to..... (here state the particular command to which attached); and that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned and restored to all the rights of a citizen.

.....
Voter MUST sign here, and inspector of elections MUST administer and attest oath.

Subscribed and sworn to before me, this
day of (here insert the date),

.....,
Inspector of Elections."

Source.—
Former
election
law, § 506.

§ 305. **Lists of nominations.** Each board of elections forthwith shall forward by mail to the secretary of state, a list of all nominations made by any petition or certificate filed with it or made at a primary election, the returns of which are canvassed by it, stating the name and residence of each nominee together with the title of the office for which he is nominated and the party or independent body nominating him. The secretary of state, after the receipt by him of such certified lists shall communicate, so far as practicable, to each commanding officer of any command having therein ten or more voters of this state absent from their respective election districts in time of war, in the actual military service of this state or the United States in the army or navy thereof, the name and residence of each nominee so certified by the board of elections, and of each person nominated by any petition or certificate filed with him, or nominated at a primary election the results of which are canvassed by him, together with the title of the office for which he is nominated and the party or independent body nominating him; and upon receipt thereof each such commanding officer shall cause such information to be posted in a conspicuous place for the information of such absent voters in his command.

Source.—
Former
election
law, §§ 506,
522.

§ 306. **Delivery of official war ballots, poll books, envelopes and supplies.** The secretary of state shall cause to be delivered to the commanding officer of every command in which ten or more voters of this state are included, absent from their respective election districts in time of war in the actual military service of this state or the United States in the army or navy thereof, a sufficient number of official war ballots of each kind and official envelopes, at least twice as many as there are such voters in such command, two poll books for the use of such voters at each poll of each election held under the provisions of this article, such blank forms, instructions to voters and other stationery as may be necessary for the proper conduct of the election, and pamphlets, properly indexed, containing a brief synopsis of this article, and such extracts therefrom as the secretary of state may deem suitable. Such supplies shall be delivered in time for use at the election for which they are prepared, in such manner and by such means as shall in the judgment of the secretary of state be best suited to secure their safe and timely delivery for the use of the voters at the election for which they have been prepared. The secretary of state may order or purchase any of the printing and supplies required by this article wherever he deems it desirable for the best interests of the state. If the number of voters in any command be less than ten, or voters be detached by military order and absent from their command, the secretary of state shall, when practicable, mail or deliver to such voters of that description as he may, with reasonable diligence, be able to locate, official war ballots and official envelopes.

Source.—
Former
election
law, §§ 507-
509.

§ 307. **Polls of election.** Any election held under the provisions of this article shall be held upon the day of the general or special election in this state, or on any secular day within

twenty days next prior thereto, such prior day to be fixed by the commanding officer of highest rank in the territory or naval fleet, where the poll or polls for such election shall be held, by proclamation duly made, but such officer need not fix the same day for such election throughout all of the military or naval units of such territory or fleet; provided, however, that if by reason of the exigencies of war such election cannot be held in any of the polls herein provided on the day so fixed such election may be held on the next day practicable thereafter upon like proclamation of such commanding officer of highest rank; but such election shall not be held later than the day of such special or general election. Such polls shall be opened on the day of such election at the quarters of the captain or other commanding officer of any company, troop or other command in the military service of this state or of the United States in the army or navy thereof, if the same be composed in whole or in part of voters of this state. All qualified voters of this state in such command may vote at such poll. Such polls shall be opened at such hour of the day as shall be most convenient for such voters and shall remain open not less than three hours and as much longer as shall, in the opinion of the inspectors of election serving at such polls, be necessary in order to receive the votes of all voters of this state entitled to vote at such polls; but no polls shall be kept open later than sunset of the day on which such election shall be held.

The inspectors shall at the opening of such polls make public proclamation of the opening thereof and the time at which such polls will be closed, and as near as may be, at one hour before the closing of the polls, public proclamation shall again be made by the inspectors that the polls will be closed at a time certain then proclaimed, which shall be the hour announced in the proclamation made at the opening of the polls. The polls shall not for any reason be kept open after the hour fixed by the first proclamation.

At the hour and place provided for the opening of the polls, the qualified voters of the state then present shall, by viva voce vote, select four of their own number to act at such election as the inspectors of election thereof. Such inspectors shall, so far as possible, be so selected that they shall equally represent the two political parties of this state which at the last preceding election in this state polled the highest and next highest number of votes respectively. Such inspectors, when so elected, shall choose one of their number as chairman of the board of inspectors by election or by drawing lots. Such chairman shall then administer the oath of office to the other inspectors and one of the other inspectors shall then administer the same to the chairman. The oath to be administered shall be as follows:

"I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election according to the best of my ability."

Such oath shall be subscribed by the person taking it, and certified by the person administering it. The inspectors shall act by majority vote. If any inspector after having been chosen shall permanently absent himself the remaining inspectors, or if there be none the voters present shall by appointment fill the vacancy, regard being had to the bipartisan character of the board.

Immediately upon the organization of such board of inspectors the commanding officers to whom shall have been delivered any official war ballots, poll books and envelopes shall deliver the same to the inspectors of election of such election and shall take a receipt therefor, which receipt shall be forwarded by mail by such commanding officer to the secretary of state. The inspectors shall produce and have at the polls, before any votes are taken by them, a box for the reception of the ballots to be voted at such election. Before proceeding to take any votes they shall open the box and publicly exhibit the inside thereof, and the box shall be entirely empty. They shall then close and securely fasten the box and it shall not be opened again until the close of the polls at such election. Each such box shall have an opening in the top thereof for the reception of voted ballots.

The chairman of the board of inspectors shall have charge of the ballot box during the election and shall receive from the qualified voters their envelopes containing ballots and shall deposit them in the ballot box. He shall designate two other inspectors, of opposite political faith, if possible, to keep the poll books of such election. The remaining inspector shall have charge of the official ballots and envelopes and shall deliver the same to the qualified voters entitled to vote at such election.

Source.—
Former
election
law, § 610.

§ 308. **Conduct of elections.** The election shall be by ballot. Before any person shall receive an official ballot or be permitted to vote, he shall make and subscribe the oath printed upon the official envelope, as provided by this article, and any member of said board of inspectors is hereby authorized to administer and attest such oath. If any voter shall refuse to take the oath so tendered he shall not be allowed to vote; but if he shall take the oath tendered him his vote shall be accepted. Upon taking the oath required, the voter shall give to the inspectors keeping the poll books, who shall each enter upon the poll book kept by him, his name and residence by street and number, if any, county and city or town. He shall also give such other information as is required to be entered in such poll book. When such voter gives such information to such inspectors, the inspector having charge of the ballots and envelopes shall write in the proper blank spaces upon such official envelope the name and residence by street and number, if any, of such voter, and the county, and the city or town in which he claims to reside, and shall deliver such ballot or ballots and such envelope, to such voter. Such voter shall then retire to some convenient place and shall prepare his ballots and envelope for voting.

After preparing his ballot and before delivering the same to the chairman of the board of inspectors, the voter shall fold his

ballot in such a way that the contents of the ballot shall be concealed and inclose the same in such envelope which he shall securely seal. He shall then deliver such envelope to the chairman of the board of inspectors; but before such envelope shall be deposited in the ballot box the chairman shall declare from such envelope the name of such voter and his residence by street and number, if any, county and city or town, and if such voter is entitled to vote and such envelope is securely sealed and his name and the other matter hereby required is recorded upon the poll books, the inspector keeping such poll books shall announce the same as correct and shall record such voter as voting. The chairman shall thereupon deposit such envelope containing such ballot or ballots in the ballot box. Any voter so having voted, shall not again be entitled to vote at such election, though present on election day in the election district where he resides.

If, for any cause, the official ballots, poll books and envelopes shall not be provided as required by law at any polling place, upon the opening of the polls for any election thereat, or if the supply of official ballots or envelopes shall be exhausted before the polls are closed, unofficial ballots, poll books and envelopes printed or written, made as nearly as practicable in the form of the official ballot, poll books and envelopes may be used.

§ 309. **Voting otherwise than at poll of voters' command.** Officers and enlisted men, voters of this state, attached to or forming part of a command having therein less than ten such voters, or detached by military order and absent from their command, may vote at such poll other than that of their own command as may be most convenient for them, or, if any such voter shall have received a ballot and envelope from the secretary of state as provided in section three hundred and six, he may take the oath provided for in section three hundred and four, upon the envelope, before his commanding officer, prepare his ballot, inclosing same in such envelope, fill out the endorsement thereon and mail such envelope or cause it to be mailed or delivered to the secretary of state, who shall include the same in the envelopes to be transmitted to the board of elections of the county in which the voter resides as provided in section three hundred and twelve. Such board shall transmit the ballot, as provided in such section, to the board of inspectors of the election district in which the voter resides, and the same shall be canvassed, if the voter is a qualified elector.

Source.—
Former
election
law, § 507.

§ 310. **Method of voting.** To vote for all the candidates of a party for all offices for which he is entitled to vote in the election district in which he resides, the voter may make a cross X mark in the circle beneath the emblem of such party. In lieu thereof, he may express his choice of certain persons for certain offices by voting as follows: To so vote for a candidate for an office to be voted for by all the voters of the state, if the name of such candidate be printed upon the ballot, the voter shall make a cross X mark in a voting square to the left of the candidate's name; to so vote for any person, for any such office, whose name is not

Source.—
Former
election
law, § 510.

printed upon the ballot, the voter may write the name of such person in the blank space provided therefor in the proper section after the printed name; to so vote for a person for an office to be voted for by less than all the voters of the state, the voter may write in the blank spaces provided therefor beneath the titles of the proper offices the names of the persons for whom he desires and is entitled to vote. The voter may make a cross X mark in a circle beneath the emblem of a party and also vote, by writing the name or making a mark in a voting square if any, for a certain person for whom he desires and is entitled to vote, for a particular office, who is not the nominee of such party; and in that case, he shall be deemed to have voted for all of the candidates of such party, for whom he is entitled to vote, except the candidate for an office for which he has expressed his choice by such writing or mark in a voting square, and shall be deemed to have voted for such person for such office; provided, however, that where two or more persons are to be elected to the same office, if the voter writes in the names of one or more persons as his choice therefor or indicates such choice by a mark in a voting square, his vote, as to that office, shall be counted only for the persons whose names are so written or indicated. If the voter shall have marked within a party circle and also indicated by writing or by a mark in a voting square the name of a person as his choice for a particular office and such person be also the candidate of such party for that office, such writing, or mark in a voting square, shall be deemed surplusage and the vote counted for such person. The ballot, if any, for electors of president and vice-president of the United States, or upon a constitutional amendment, proposition or question, shall be marked in the same manner as similar ballots used by other voters.

Source.—
Former
election
law, §§ 511,
532.

§ 311. **Count of the votes; transmission of returns.** As soon as the polls of an election are closed, the inspectors of election thereat publicly shall destroy all official envelopes and ballots not voted; and shall then publicly open the ballot boxes and count and ascertain the number of voters voting and not adjourn or postpone the count until it shall be fully completed. The board of inspectors shall commence the count by comparing the two poll books used at such election, correcting any mistakes therein, and by counting the envelopes containing ballots found in the ballot boxes without opening them, and by comparing the envelopes containing ballots found in such box with the number shown by the poll books to have been deposited therein. The inspectors shall number each voter whose name is recorded in such poll books as having voted beginning with the first name entered therein and numbering the same in consecutive order and shall fill out and sign the certificate required to be made by them as to the whole number voting at such election. If the envelopes containing ballots found in such box shall be more than the number of such envelopes so shown by the poll books to have been deposited therein, the inspectors shall compare the names upon such envelopes with the names recorded in such poll books and all such envelopes

so found in said ballot box purporting to have been deposited therein by a voter whose name is not duly entered in such poll books as herein provided, shall with their contents immediately be destroyed, without opening the same; and if more than one such envelope shall be found in said ballot box purporting to have been deposited therein by the same voter, then all such envelopes and their contents purporting to have been deposited in such ballot box by such voter shall be destroyed. No such envelope that has not the official indorsement as herein provided shall be counted.

At the completion of the count the inspectors shall certify the correctness of the same upon the poll books and shall publicly announce the result of such count. The inspectors thereupon shall inclose all such envelopes containing ballots without opening the same, in a sealed package with one of said poll books, and shall direct them to the secretary of state, at Albany, New York, and shall forward the same by mail or express to him as soon as possible after such election. The inspectors shall inclose the other of such poll books in an envelope and shall direct it to the governor of the state of New York, at Albany, New York, and shall forward it forthwith to him by mail or express, but by different hands, if possible, from those carrying such envelopes containing ballots and such poll books, so directed to be forwarded to the secretary of state, receipts therefor, respectively, being taken by the chairman of the board of inspectors. The secretary of state shall provide for such return at the expense of the state.

§ 312. Disposition of envelopes and ballots by secretary of state.

Upon the receipt by the governor of the poll books of the votes cast at any such election, he shall deliver the same to the secretary of state. The secretary of state, upon receipt of the packages, shall notify the chairman or any member of the state committees of the parties which at the last election for governor cast the highest and the next highest number of votes for such office, that at a day and hour named therein at his office he will begin opening the packages and comparing the poll books with the envelopes containing ballots received by him and with the poll books, if any, received from the governor. Such notice shall be served personally or by mail directed to the last known place of residence of such person. The secretary of state may proceed with such work from day to day without further notice. He forthwith shall prepare from said poll books and envelopes a separate statement for each county under his official seal in which shall appear all the information hereby required to be entered in such poll books, concerning the voters resident in such county. He shall affix his seal of office to each such envelope and shall transmit such statement with envelopes containing ballots of such voters resident in such county, to the board of elections of each such county, except that in any county within the city of New York such statement and envelopes shall be transmitted to the board of

Source.—
Former
election
law, § 512.

elections of such city, taking their receipt for such statement and the number of such envelopes.

Source.—
Former
election
law, § 513,
subd. 2.

§ 313. **Public list of voters, by election districts.** A statement for each election district, showing the names and residence addresses, as shown on the statement of the secretary of state, of all voters in such election district, as near as may be, shall be prepared by the board of elections and shall be open to public inspection at the office of each such board on and after the fourth Tuesday following election day. Such statements shall be added to from time to time as names of additional voters are received by such boards of election. Each such statement shall be prepared in duplicate and the duplicate copy thereof shall be mailed immediately to the secretary of state and it shall be open at all times to public inspection at the office of the secretary of state together with all additions made thereto.

Source.—
New.

§ 314. **Canvass of votes.** The votes cast upon war ballots shall be canvassed by the board of elections, except that in a county having a single commissioner of elections or a county in which the county clerk exercises the powers and duties of a board of elections, such canvass shall be made by a special board consisting of such commissioner or clerk and one of the inspectors of election, of the county, of opposite political faith, designated by such commissioner or clerk upon recommendation of the chairman of the county committee of such party of opposite political faith, and except that in the city of New York such canvass shall be made in the different counties, in each borough office of the board of elections, by four employees of the board designated by the board upon the recommendation of the chairmen of the county committees in the several counties of the parties entitled to representation upon a board of inspectors of election. Such designations shall be made in such manner as to secure equal representation of the two political parties which, at the general election next preceding the election as to which such special board is to act, cast the highest and next highest number of votes. If any such chairman shall fail to make such a recommendation, the commissioner, county clerk or board may designate without recommendation. The board of elections or such special board shall convene for the purpose of canvass at ten o'clock in the forenoon on the sixth Tuesday after the election, in the case of a general election, or at such hour on a day to be fixed by the board of elections not later than the sixth Tuesday after the election, in the case of any other election. At least one week before such day, the board of elections shall post in its office, and in each branch office, a notice specifying the time and place when the canvass will be made and also shall mail notice thereof to any candidate who shall have previously filed a written request for such notice and to the chairman of each of the county committees.

At the time and place so fixed, the board of elections or such special board publicly shall canvass the votes. The single commissioner of elections, the county clerk or the president of the board of elections, as the case may be, shall be chairman of the

board. In the city of New York, the board of elections shall designate a chairman of each special board in each county. The canvassing board shall open the packages containing the statement and envelopes. It shall then assort the envelopes and group them by election districts. The chairman shall read aloud the endorsement contained upon each of the envelopes for an election district. After the reading of each such endorsement, the board shall examine the register for the election district, and poll book, if any, and shall compare the signatures, if any, in the register or poll book and on the envelope, of a person or persons of the same name. It shall reject any envelope bearing the name of a voter who voted within the state, in the election district, at the election. After the voter whose name is on the envelope shall be found qualified to vote in the election district, the chairman or a member of the board shall open the envelope and without unfolding or inspecting the contents of the ballot or ballots shall deposit them in a ballot box or boxes. If an envelope shall contain more than one ballot for the same officers, amendment or question, all ballots therein shall be rejected. If it be determined that for any reason the voter was not qualified to vote in such election district, his envelope shall be rejected, without opening, or, if such disqualification be discovered after the withdrawal of the ballot or ballots from the envelope and before deposit in the ballot box, his ballot or ballots shall be rejected without inspection or unfolding and shall be returned to the envelope. In case of such rejection, the board shall endorse thereon the reason therefor. If it be impossible to determine the address of the voter, or, if there is no address on the envelope by which the appropriate election district may be determined, or, if the envelope is entirely blank, such envelope shall not be opened but shall be rejected.

After all the ballots for an election district shall have been cast, the board shall proceed immediately to canvass the same in the manner, so far as practicable, in which votes are canvassed by inspectors of election, except that no ballot shall be rejected as void where the intent of the voter is clearly apparent. The board shall make a statement and return of the canvass for such election district substantially in the form provided by this chapter for a return by inspectors of election. Such board shall complete the canvass of votes in an election district and make such return before proceeding to the canvass of the votes in another election district. In the city of New York, such returns, for a county, shall be immediately filed with the board of elections at its main office. If a board other than the board of supervisors or board of elections of the city of New York canvasses the returns from election districts as to any of the offices, the board of elections immediately shall transmit to the clerk or secretary of such other canvassing board a copy of the returns for such districts, made pursuant to this section.

§ 315. **Canvass of returns by county boards.** The county board of canvassers, or such other board as performs like duties, shall convene not later than the seventh Thursday after the elec-

Source.—
Former
election
law, § 515.

tion day, at their usual place of meeting, at one o'clock in the afternoon for the purpose of canvassing such returns.

At such meeting of the county or other canvassing board the board shall proceed to canvass such returns for the respective election districts. It shall, from such returns, together with the returns theretofore made of such election, make new and separate statements of the votes cast in the county or any part thereof, or in the city of New York or any part thereof, as the case may be. It shall complete its canvass and make the statements provided for by section two hundred and seventy-four of this chapter, and it shall not, until such meeting, determine the result of the election, anything now provided by law to the contrary notwithstanding. But nothing herein shall prevent any county board of canvassers from proceeding as provided by this chapter except as to such final determination. Such meeting or meetings of the board of county canvassers shall be deemed a continuation of its regular session.

Source.—
Former
election
law, § 516.

§ 316. **Canvass by state board of canvassers.** If any such new statements shall be made by a county board of canvassers after the time fixed by law for the canvass of the regular statements of canvassing boards by the state board of canvassers, the state board of canvassers shall convene upon notice by the secretary of state and shall proceed to canvass such new statements, and its original canvass, if any, shall be corrected accordingly; and the state board of canvassers shall make a determination in accordance with such new statements and shall not theretofore determine the result of the election.

Source.—
Former
election
law, § 517.

§ 317. **Returns not made prior to certain dates not canvassed.** No statement, as provided by this article, which shall not have been duly made and filed by a county board of canvassers prior to the twenty-ninth day of December next succeeding such election in any year, shall be canvassed or affect the result of such an election; and no return or statement not received by a county board of canvassers at its meeting herein provided for, shall be thereafter canvassed, or affect the result of such election.

Source.—
Former
election
law, § 518.

§ 318. **Certain provisions of penal law to apply.** All the provisions of the penal law relating to crimes against the elective franchise shall be deemed to apply to all elections held under the provisions of this article, and any person who shall violate any such provisions may be indicted at any time in any county of this state and may be fined or imprisoned or both so fined and imprisoned upon conviction thereof whenever found in this state.

Source.—
Former
election
law, §§ 519,
521.

§ 319. **General provisions concerning elections to apply; article to be liberally construed.** The general provisions of this act shall apply to elections held under this article except as they are inconsistent with this article, but no mere informality in the manner of carrying out or executing the provisions of this article shall invalidate the election held under it or authorize the rejection of the returns thereof; and the provisions of this article shall be construed liberally for the purposes herein expressed or intended.

ARTICLE 13.

CAMPAIGN RECEIPTS, EXPENDITURES AND CONTRIBUTIONS.

Section 320. Political committee defined.

- 321. Statement of campaign receipts and expenditures by political committee.
- 322. Statement of campaign receipts, expenditures and contributions other than by a political committee.
- 323. Filing of statement of campaign receipts, expenditures and contributions; forms.*
- 324. Treasurer of political committee; filing of name and address.
- 325. Campaign contributions to be under true name of contributor.
- 326. Accounting to treasurer or candidate; vouchers.
- 327. Application of article limited.

§ 320. **Political committee defined.** The term "political committee," under the provisions of this article, means any committee or combination of three or more persons co-operating to aid or to promote the success or defeat of a political party or principle, or of any proposition submitted to vote at a public election; or to aid or take part in the election or defeat of a candidate for public office or to aid or take part in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this article shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any election.

Source.—
Former
election
law, § 540.

§ 321. **Statement of campaign receipts and expenditures by political committee.** The treasurer of every political committee which, or any officer, member or agent of which in connection with any election receives or expends any money or its equivalent or incurs any liability to pay money or its equivalent shall file a sworn statement setting forth all the receipts, expenditures, and liabilities of the committee, and of every officer, member and other person in its behalf. In each case it shall include the amount received, the name of the person or committee from whom received, the date of its receipt, the amount of every expenditure, the name of the person or committee to whom it was made, and the date thereof; and unless such expenditure shall have been made to another political committee, it shall state clearly the purpose of such expenditure. Expenditures in sums under five dollars need not be specifically accounted for by separate items, except in the case of payments made for account of or to political workers, watchers or messengers.

Source.—
Former
election
law, § 540,
in part.

§ 322. **Statement of campaign receipts, expenditures and contributions other than by a political committee.** 1. Any

Source.—
Former
election
law, §§ 541,
542.

* So in original. [Does not conform to section heading.]

candidate for election to public office, or for nomination for public office at a primary election or convention, or for election to a party position at a primary election, shall file a sworn statement, setting forth the particulars prescribed by the preceding section, of all moneys or other valuable thing, paid, given, expended or promised by him to aid his own nomination or election, or to promote the success or defeat of a political party, or to aid or influence the nomination or election or the defeat of any other candidate to be voted for at the election or primary election or at a convention, including contributions to political committees, officers, members or agents thereof, and of moneys or other valuable thing received by or promised to him to be used for any of the purposes above specified, except that such a statement need not be filed by a candidate for party position at a primary election if he expended nothing or his only expenditures were for personal expenses, as hereinafter defined, in a sum not exceeding ten dollars.

2. Any person, other than a candidate, who to promote the success or defeat of a political party, or to aid or influence the election or defeat of a candidate for nomination at a primary election or convention, or of a candidate for any party position to be voted for at a primary election, directly or indirectly, shall give, pay, expend, contribute or promise any money or other valuable thing, except to the chairman, treasurer or a member of a political committee or to an agent duly authorized thereto in writing by such committee, or to a candidate or agent of such candidate duly authorized thereto in writing by the candidate, or except for personal expenses as hereinafter defined, shall file a sworn statement setting forth the particulars prescribed by the preceding section.

3. For the purposes of this section, personal expenses shall include only payments for traveling expenses and expenses incidental thereto, for writing, printing and preparing for transmission any letter, circular, or other publication not issued at regular intervals, containing a statement of the position or views of the candidate or person upon public or other questions, for stationery and postage and for telegraph, telephone and other public messenger service; but all such expenses shall be limited to those which are directly and personally incurred and paid by the candidate or person described in this section.

§ 323. Filing of statements of campaign receipts, expenditures and contributions; forms. 1. The statement of a treasurer of a political committee shall be filed in the office of the secretary of state; and if the committee aided or took part solely in the election or defeat of a candidate for election to public office or for nomination to public office or for election to party position at a primary election who was voted for only within the city of New York, a duplicate statement shall be filed in the office of the board of elections of the city of New York.

2. The statement of a candidate shall be filed, if the candidate was voted for only within the city of New York, or elsewhere only within a county, in the office of the board of elections, except

Source.—
Former
election
law, § 549;
penal law,
§ 776.

that statements by a candidate for election to a town, village or city office, other than in the city of New York, shall be filed in the office of the town, village or city clerk. The board of elections with which the statement of a candidate for election to public office is filed shall file forthwith a certified copy thereof with the secretary of state, except that in the city of New York the board shall so file copies of the statements only of candidates for election to offices other than city, county, and borough offices.

3. The statement of a person other than a candidate or treasurer of a political committee shall be filed in the office of the board of elections of the city or for the county in which such person resides. The depositing of such statement, within the time required for the filing thereof, in a postoffice, directed to the officer or board with whom or which the statement is required to be filed, fully postpaid and registered, shall be equivalent to a due filing thereof, except that the filing thereafter of the required statement may be compelled if the officer or board did not receive the one which was mailed.

4. Such statement shall be filed within twenty days of the election or primary election to which it relates.

5. The secretary of state shall provide forms suitable for such statements. He may print upon the back thereof such provisions of this article as he may deem proper. He shall deliver copies to boards of elections on their requisition. Each such board shall deliver necessary copies for statements of candidates for election to town, village and city offices, other than in the city of New York, to the city, town and village clerks within this county. The secretary of state and each such board or clerk before an election shall mail a copy to each nominated candidate for election to public office whose statement is required to be filed with him or it. The secretary of state and each such board also shall mail a copy to any designated candidate for party position or other person required to file a statement in his or its office who applies therefor. The secretary of state, before an election or primary election, also shall transmit a copy of the appropriate form to the treasurer of each political committee.

§ 324. **Treasurer of political committee; filing of name and address.** Every political committee shall have a treasurer, and shall cause him to keep detailed accounts of all money or its equivalent, received by or promised to, and of all expenditures, and promises of payment made by the committee or any of its officers or members or by any person acting under its authority or in its behalf. No member thereof or other person acting under its authority or in its behalf shall receive any money or its equivalent, or expend the same until the committee shall have chosen a treasurer. There shall be filed in the office of the secretary of state within five days after the choice of a treasurer a statement signed by at least three members of such committee giving the name and address of the treasurer chosen.

Source.—
Former
election
law, § 542.

§ 325. **Campaign contributions to be under true name of contributor.** No person shall in any name except his own,

Source.—
Former
election
law, § 547.

directly or indirectly, make a payment or a promise of payment to a political committee or to any officer or member thereof, or to any person acting under its authority or in its behalf, nor shall any such committee or any such person knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any name other than that of the person or persons by whom it is made.

Source.—
Former
election
law, §§ 544,
545.

§ 326. **Accounting to treasurer or candidate; vouchers.** 1. Whoever, acting as an officer or member or under the authority of a political committee, or under the authority of a candidate for election to public office, or for nomination for public office at a primary election or convention, or for election to party position at a primary election, receives any money or its equivalent, or promise of the same, or expends or incurs any liability to pay the same, shall, within three days after demand and in any event within fourteen days after such receipt, expenditure, promise or liability, give to the treasurer of such committee, or to such candidate if an agent authorized by him a detailed account of the same, with all vouchers required by this article, which shall be a part of the accounts and files of such treasurer or such candidate.

2. Every payment required to be accounted for, unless the total expense payable to any one person be not in excess of five dollars, shall be vouched for by a receipted bill stating the particulars of expense, and every voucher, receipt or account hereby required shall be preserved for fifteen months after the election to which it relates.

Source.—
Former
election
law, § 561;
penal law,
§ 776.

§ 327. **Application of article limited.** This article shall apply to elections of town or village officers only in respect of the provisions requiring a candidate to file a statement and regulating the form thereof and the time and place of filing. This article shall not apply to any person, association or corporation engaged in the publication or distribution of any newspaper or other publication issued at regular intervals in respect of the ordinary conduct of such business.

ARTICLE 14.

JUDICIAL PROCEEDINGS.

Section 330. Proceedings as to designations, nominations, ballots and canvass.

331. Proceedings as to registration and voting.

332. Proceedings as to enrollment.

333. Proceedings for examination or preservation of ballots.

334. Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions.

335. Procedure.

336. Proceedings to review removal of member of committee.

§ 330. **Proceedings as to designations, nominations, ballots and canvass.** The supreme court or any justice thereof within the judicial district shall determine any question arising, and make such order as justice may require, in respect of the following matters:

Source.—
Former
election
law, §§ 56,
125, 134, 344,
381, 430, 433,
435, 532, 520.

1. The designation of any candidate, in a proceeding instituted by any candidate aggrieved or by a person who shall have filed objections pursuant to section one hundred and forty-two.

2. The nomination of any candidate, or his election to any party position, in a proceeding instituted by any candidate aggrieved or by the chairman of any committee as defined in section two, or, in the case of a nomination made otherwise than at a primary election, by a person who shall have filed objections pursuant to section one hundred and forty-two; and the court or justice may direct a reassembling of any convention or the holding of a new primary election where a convention or primary election has been characterized by such frauds or irregularities as to render impossible a determination as to who rightfully was nominated or elected, but a proceeding under this subdivision relating to a primary election, must be instituted within ten days of such primary election.

3. The form and contents of official ballots, including ballots upon voting machines, and the right to the use of any emblem or color, in a proceeding instituted by any candidate aggrieved or by the chairman of any committee as defined in section two.

4. Protested, wholly blank or void ballots shown upon the statement of the canvass in the election district, or any rejected absentee voters' ballots for an election district, in a proceeding instituted by any candidate aggrieved, or the chairman of any committee as defined in section two, against the board of canvassers, if any, of the returns from such district, and otherwise against the board of inspectors of election of such district, both of which boards shall continue in office for the purposes of this subdivision; and the court or justice may direct a recanvass, or the correction of an error in the canvass, of such ballots, but a proceeding under this subdivision must be instituted within twenty days of the election.

5. The canvass of returns by the state or a county or a city board of canvassers, in a proceeding instituted by any voter, except that a proceeding on account of the failure of the state board of canvassers to act upon new returns of a board of canvassers of any county, made pursuant to the order of a court or justice, may be instituted only by a candidate aggrieved or by a voter in such county; and the court or justice may direct a recanvass or the correction of an error or the performance of any duty imposed by law on such a state, county or city board, but a proceeding under this subdivision must be instituted within thirty days after the alleged erroneous statement or determination was made, or the time when the board should have acted in the particulars as to which it is claimed to have failed to perform its duty.

The county judge within his county also shall have jurisdiction of a proceeding under subdivision one of this section, of a proceeding under subdivision two of this section, except as to a nomination or election at a primary election or a nomination by a state or judicial district convention, and of a proceeding under subdivision three of this section.

Source.—
Former
election
law, § 153.

§ 331. **Proceedings as to registration and voting.** 1. The supreme court or a justice thereof within the judicial district or the county judge within his county, in a proceeding instituted by any voter to whom registration unlawfully has been refused shall compel by order the registration of such voter, and, in a proceeding instituted by any voter shall, by order, direct to be stricken from the register any name unlawfully thereon, and shall order the board of inspectors of election, if necessary, to reconvene for such purposes on the second Saturday before election day. Written notice of an application under this subdivision must be given to the board of inspectors, by service thereof either on the chairman or two of the inspectors.

2. Such court, justice or judge, in a proceeding instituted by any voter whose application to vote has unlawfully been denied by the inspectors, shall compel by order the reception of the vote, within the hours established by law.

3. An affidavit by any officer or employee of the board of elections or any police officer, sheriff or deputy sheriff, or a special deputy attorney-general appointed pursuant to the executive law, that he visited the premises claimed by the applicant as his residence and that he interrogated an inmate, housedweller, keeper, caretaker, owner, proprietor or landlord thereof or therein as to the applicant's residence therein or thereat, and that he was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the election, shall be presumptive evidence against the right of the voter to register from such premises.

Source.—
Former
election
law, §§ 22,
24.

§ 332. **Proceedings as to enrollment.** 1. The supreme court or a justice thereof within the judicial district, or the county judge within his county, in a proceeding instituted by a duly enrolled voter of a party, at least ten days before a primary election, shall direct the enrollment of any voter with such party to be cancelled if it appears either that any material statement in the declaration of the voter upon which he was enrolled is false, or that the voter has died, or that he does not reside in the election district.

2. The chairman of the county committee of a party with which a voter is enrolled in such county, may, upon a written complaint by an enrolled member of such party in such county and after a hearing held by him or by a sub-committee appointed by him upon at least two days' notice to the voter, personally or by mail, determine that the voter is not in sympathy with the principles of such party. The supreme court or a justice thereof within the judicial district, in a proceeding instituted by a duly

enrolled voter of the party at least ten days before a primary election, shall direct the enrollment of such voter to be cancelled if it appears from the proceedings before such chairman or sub-committee, and other proofs if any be presented, that such determination is just.

§ 333. **Proceedings for examination or preservation of ballots.** Source.—Former election law, §§ 82, 274.
The supreme court or a justice thereof may direct the examination by any candidate or his agent of any ballot or voting machine upon which his name appeared, and the preservation of any ballots in view of a prospective contest, upon such conditions as may be proper.

§ 334. **Proceedings to compel filing of statements or corrected statements of campaign receipts, expenditures and contributions.** Source.—Former election law, §§ 550, 551, 552-555, 558-560.
1. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters may compel by order, any person required under the provisions of this chapter to file a statement of receipts, expenditures or contributions for campaign purposes, who has not filed any such statement within the time prescribed by this chapter, to file such statement within five days after notice of the order.

2. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, may compel by order any person required under the provisions of this chapter to file a statement of receipts, expenditures or contributions for campaign purposes, who has filed a statement which does not conform to the requirements of this chapter in respect of its truth, sufficiency in detail or otherwise, to file a new or supplemental statement which shall make the statement or statements true and complete within five days after notice of the order.

3. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or primary or by any five qualified voters, may compel by order any person who has failed to comply, or the members of any committee which has failed to comply, with any of the provisions of article thirteen to comply with the provisions of such article.

4. In every proceeding instituted under this section, except a proceeding to compel the filing of a statement by a candidate for nomination to a public office at a primary election or for election thereto, or by the treasurer of a political committee, who has failed to file any statement, the petitioner or petitioners, upon the institution of the proceeding shall file with the county clerk an undertaking in a sum to be determined and with sureties to be approved by a justice of the court or the county judge of the county conditioned to pay any costs imposed against him or them. No person shall be excused from testifying or from producing any books, papers or other documents upon any hearing under the provisions of this section upon the ground that the evidence may tend to convict him of a crime, or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any

penalty or forfeiture on account of any transaction or thing concerning which he may so testify or produce evidence and no testimony so given or produced shall be received against him in any criminal proceeding.

Source.—
New.

§ 335. **Procedure.** A special proceeding under the foregoing provisions of this article shall be heard upon a verified petition and such oral or written proof as may be offered, and upon such notice to such officers, persons or committees as the court, justice or judge shall direct, and shall be summarily determined. The proceeding shall have preference over all other causes in all courts.

Source.—
Former
election
law, § 42.

§ 336. **Proceedings to review removal of member of committee.** The action of any committee in removing a member thereof may be reviewed by certiorari.

ARTICLE 15.

LAWS REPEALED; SAVING CLAUSE AND MISCELLANEOUS PROVISIONS; WHEN TO TAKE EFFECT.

Section 340. Laws repealed.

341. Saving clause and miscellaneous provisions.

342. When to take effect.

§ 340. **Laws repealed.** Chapter twenty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," and all acts amendatory thereof and supplemental thereto, including section three of chapter five hundred and fifty-five of the laws of nineteen hundred and twenty-one, are hereby repealed.

§ 341. **Savings clause and miscellaneous provisions.** 1. Notwithstanding the foregoing repeal, the registers heretofore provided shall be used at elections, for which voters are required to be registered, held in the year nineteen hundred and twenty-two prior to the general election, and at the fall primary in such year, for the purposes indicated by the several columns thereof, and in the manner provided by the election law before the taking effect of this chapter. At an election in such year other than a primary election, held before such general election, and at the fall primary in the city of New York in such year, poll-books shall be provided in the form, and shall be used for the purposes indicated by the several columns, and in the manner, as prescribed by the election law before the taking effect of this chapter. Party nominations for city, town and village elections held in the year nineteen hundred and twenty-two before the general election may be made in the manner, and certificates of party and independent nominations and declinations thereof for such an election may be in the form and may be authenticated, and shall be filed within the times, provided by the election law before the taking effect of this chapter; and this chapter shall not impair nor affect any notice of such an election heretofore given or pending or any certificate of nomination or declination heretofore made or heretofore filed. Except as otherwise provided in subdivision two of this section, commis-

sioners of election in office when this chapter takes effect shall continue in office for the term for which they were appointed, unless sooner removed. Where, by this chapter, the salaries of commissioners of elections are to be fixed by the board of supervisors, such commissioners shall receive their present salaries until otherwise provided by such board, but such salaries shall not be changed to take effect during the terms of the present incumbents. The positions of subordinates in the offices of boards or commissioners of elections and their compensation shall continue until changed pursuant to law except in a county in which the powers and duties of the board of elections are devolved by this chapter upon the county clerk. General clerks, for election districts, heretofore appointed, shall be the "clerks" for such districts, within the meaning of this chapter, until the expiration of their present terms, unless sooner removed. Inspectors of election now in office, and poll clerks and ballot clerks in the city of New York, shall continue in office for the terms for which they were appointed, unless sooner removed. Election districts, as now constituted, shall continue until changed pursuant to this chapter.

2. The terms of office of commissioners of election in any county in which, by the provisions of this chapter, the powers and duties of the board of elections are devolved upon the county clerk shall expire, and the offices of such commissioners and the offices and positions under such board are abolished, when this chapter takes effect, and each such clerk, in his respective county, shall have the custody of the books, records and papers of such board.

§ 342. **When to take effect.** This chapter shall take effect immediately.

CHAPTER 589

AN ACT for the relief of sick or disabled veterans of the military or naval service of the United States, and making an appropriation therefor.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Commission and employees. A commission, to be known as the New York veterans' relief commission, consisting of the adjutant-general, who shall be the chairman thereof, the comptroller and the attorney-general, is hereby created. Each member of the commission shall serve without pay, but shall be allowed his actual and necessary traveling and other expenses incurred by him in the performance of his official duties. The commission shall appoint and may at pleasure remove necessary employees for the conduct of its business at salaries fixed by it, provided, however, that in the appointment of employees preference shall be given to persons who served honorably, in the army, navy or marine corps of the United States at any time between the sixth

day of April, nineteen hundred and seventeen, and the eleventh day of November, nineteen hundred and eighteen, and who at the time of their entry into such service were residents of the state of New York. In the exercise of its powers and the performance of its duties, the commission, together with its staff of employees, shall be deemed a bureau of the adjutant-general's office, and the adjutant-general shall be the chief administrative officer of such bureau.

§ 2. Deputy commissioners. The commission shall appoint, and may at pleasure remove, one deputy commissioner in each assembly district, who shall reside in such district. Each deputy commissioner, before entering upon the duties of his office, shall take the constitutional oath of office and file with the commission an undertaking, in an amount and with a surety or sureties to be approved by it, for the faithful discharge of his duties as such deputy and for the safe-keeping and lawful distribution of any moneys that come into his hands pursuant to the provisions of this act. Each such deputy shall investigate all applications for relief under this act, within the territorial jurisdiction of the assembly district which he represents, and shall determine the amount of relief within the limits herein prescribed, to be extended to each applicant therefor. Deputy commissioners shall serve without pay, but shall be allowed their actual and necessary traveling and other expenses incurred by them in the performance of their official duties.

§ 3. Regulations. Two members of the commission shall constitute a quorum to transact business and the concurrence of at least two members shall be necessary to render a determination. The expenses of the commission, including salaries of employees and expenses of members, employees and deputies shall be paid by the state treasurer on the warrant of the comptroller on the order of the chairman of the commission out of any money appropriated for carrying out the provisions of this act. The commission shall from time to time adopt such rules and regulations as it may deem necessary, not inconsistent with law, for the distribution of such relief, and for the conduct and administration of the duties and affairs of the commission. The commission, from time to time, shall deposit with each deputy commissioner a sum of money, in an amount which they shall deem sufficient, from which such deputy commissioner shall extend immediate relief in cash, in the amounts hereinafter specified, to all persons applying therefor and who qualify for such relief under the conditions hereinafter imposed. For such purpose, the state comptroller shall draw his warrants, to the order of the commission, for such amounts as may be certified from time to time by the commission. The commission shall make rules and regulations for the audit of all amounts expended by the local deputies for the relief of any such veteran, and require reports from such deputies at stated intervals showing the amounts audited and paid and such other matters as the commission may require.

§ 4. **Offices.** The trustees of public buildings shall, upon demand, supply suitable and convenient offices and quarters for the commission.

§ 5. **Applications for relief.** Every honorably discharged veteran of the military or naval service of the United States, residing in the state of New York at the time this act takes effect, who was in such service at any time between the sixth day of April, nineteen hundred and seventeen, and the eleventh day of November, nineteen hundred and eighteen, inclusive, may file with the deputy commissioner of the assembly district in which he resides his verified petition, upon a blank to be provided by the commission and delivered upon request by such deputy, showing

1. That he was in such service within the times above specified.
2. That he is suffering from a sickness or disability, specifying it, incurred during such service or as a result thereof.
3. That at the time of making the application, he has been out of regular employment for a period of fourteen days next preceding.
4. The amount of compensation, vocational training allowance or other financial aid, if any, which the applicant is receiving per month from the United States government.

§ 6. **Additional papers to be filed.** With his application, each applicant also shall file with the deputy commissioner his honorable discharge, or certified copy thereof, together with proof by affidavit, satisfactory to the commissioner, executed by a duly licensed physician, a resident of the assembly district in which such deputy has jurisdiction, showing in detail the sickness or disability of the applicant and his reasons for believing it to be sickness or a disability incurred in, or resulting from, the military or naval service of the United States. Each application shall also be accompanied by an affidavit, on a form to be prescribed by the commission, from the commander of a post of the American Legion or veterans of foreign wars located in such assembly district to the effect that the affiant has examined and investigated such application and believes the applicant to be within the provisions of this act. The commission, by rule or regulation, may provide for additional proof from time to time, as to the amount, if any, which the applicant is then receiving from the United States government.

§ 7. **Examination; determination; payments.** The deputy commissioner shall examine without any delay each application filed with him and for that purpose may subpoena witnesses and compel their attendance. He may administer oaths and make such further investigation as to him may seem necessary, and upon the conclusion of his investigation he shall make such determination as justice requires. Each veteran whose claim is allowed by the deputy commissioner, shall receive, in the case of a person without dependents, the sum of thirty dollars per month, and in the case of a person having dependents the sum of forty-five dollars per month, provided, however, that in any month that such applicant is receiving aid from the United States government aggregating thirty or more dollars per month, in the case of a person

without dependents, or aggregating forty-five or more dollars per month, in the case of a person having dependents, he shall receive nothing under this act, and that in any month that he is receiving from the United States government less than thirty dollars per month, in the case of a person without dependents, or aggregating less than forty-five dollars per month, in the case of a person having dependents, the difference only between the amount paid by the United States government and the amount otherwise allowable per month, shall be paid to such applicant, and provided further, that the total payments under this act to any one such applicant shall not exceed in the aggregate the sum of two hundred and fifty dollars. After the audit of any such claim and before or after payments shall have begun, the deputy, after a hearing upon notice to the veteran, may revoke such audit, on the ground that the application, or any accompanying affidavit, contained a material false statement, and in case of such revocation no further payments shall be made to the veteran affected thereby, and the state may recover the amount paid, if any, in an action brought by the attorney-general. An applicant whose claim is rejected by a deputy, or who is not satisfied with the amount allowed, may appeal to the commission, which shall then have power to determine the matter and to fix the amount, if any, to be paid.

§ 8. **Penalty for false statement.** Whoever intentionally makes a false statement, oral or written, concerning or affecting a claim under the provisions of this act shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. Offenses under this act may be prosecuted by the attorney-general, or under his direction, and all fines collected thereunder shall be paid to the commission and be used for payments to veterans under this act.

§ 9. **Appropriation.** The sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, for carrying out the provisions of this act, payable by the treasurer, on the warrant of the comptroller to the order of the commission.

§ 10. This act shall take effect immediately.

CHAPTER 590

AN ACT to amend the general business law, in relation to the sale of tickets of admission to theatres and places of amusement.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter twenty-five of the laws of nineteen hundred and nine, entitled "An act relating to general business, consti-

tuting chapter twenty of the consolidated laws," is hereby amended by inserting therein a new article, to follow article ten-a, to be article ten-b, to read as follows:

ARTICLE X-B.

THEATRE TICKETS.

Section 167. Matters of public interest.

168. Reselling of tickets of admission; licenses.

169. Bond.

170. Revocation of licenses.

171. Supervision of comptroller.

172. Restriction as to price.

173. Violations; penalties.

174. Constitutionality of article.

§ 167. **Matters of public interest.** It is hereby determined and declared that the price of or charge for admission to theatres, places of amusement or entertainment, or other places where public exhibitions, games, contests or performances are held is a matter affected with a public interest and subject to the supervision of the state for the purpose of safeguarding the public against fraud, extortion, exorbitant rates and similar abuses.

§ 168. **Reselling of tickets of admission; licenses.** No person, firm or corporation shall resell or engage in the business of reselling any tickets of admission or any other evidence of the right of entry to a theatre, place of amusement or entertainment, or other places where public exhibitions, games, contests or performances are held without having first procured a license therefor from the comptroller. Such license shall be granted upon the payment by or on behalf of the applicant of a fee of one hundred dollars and shall be renewed upon the payment of a like fee annually. Such license shall not be transferred or assigned, except by permission of the comptroller. Such license shall run to the first day of January next ensuing the date thereof, unless sooner revoked by the comptroller. Such license shall be granted upon a written application setting forth such information as the comptroller may require in order to enable him to carry into effect the provisions of this article and shall be accompanied by proof satisfactory to the comptroller of the moral character of the applicant.

§ 169. **Bond.** The comptroller shall require the applicant for a license to file with the application therefor a bond in due form to the people of the state of New York in the penal sum of one thousand dollars, with two or more sufficient sureties, who shall be freeholders within the state of New York, conditioned that the obligor will not be guilty of any fraud or extortion, and will not exact or receive a price for any such ticket or evidence of the right of entry in excess of the price authorized by this article. The comptroller shall keep books wherein shall be entered in alphabetical order all licenses granted and all bonds received by

him as provided for in this article, the date of the issuance of such licenses and the filing of such bonds, which record shall be open to public inspection. A suit to recover on the bond required to be filed by the provisions of this article may be brought by the comptroller or on the relation of any party aggrieved in a court of competent jurisdiction and in the event that the obligor named in such bond has violated any of the conditions of such bond, recovery for the full penal sum of such bond may be had in favor of the people of the state.

§ 170. **Revocation of licenses.** In the event that any licensee shall be guilty of any fraud or misrepresentation or shall charge for any ticket a price in excess of the price authorized by this article or otherwise violate any of the provisions of this article or any other law or local ordinance, the comptroller shall be empowered, on giving ten days' notice by mail to such licensee, and on affording such licensee an opportunity to answer the charges made against him, to revoke the license issued to him.

§ 171. **Supervision of comptroller.** The comptroller shall have the power, upon complaint of any citizen or of his own initiative, to investigate the business, business practices and business methods of any such licensee if in the opinion of the comptroller such investigation is warranted. Each such licensee shall be obliged, on request of the comptroller, to supply such information as may be required concerning his business, business practices or business methods.

§ 172. **Restriction as to price.** No licensee shall resell any such ticket or other evidence of the right of entry to any theatre, place of amusement or entertainment, or other place where public exhibitions, games, contests or performances are given at a price in excess of fifty cents in advance of the price printed on the face of such ticket or other evidence of the right of entry. Every person, firm or corporation who owns, operates or controls a theatre, place of amusement or entertainment, or other place where public exhibitions, games, contests or performances are held shall, if a price be charged for admission thereto, print on the face of each such ticket or other evidence of the right of entry the price charged therefor by such person, firm or corporation.

§ 173. **Violations; penalties.** Every person, firm or corporation who resells any such ticket or other evidence of right of entry or engages in the business of reselling any such ticket or other evidence of the right of entry, without first having procured the license prescribed and filing of a bond required by this article shall be guilty of a misdemeanor. Every person, firm or corporation who violates any provisions of this article shall be guilty of a misdemeanor.

§ 174. **Constitutionality of article.** In case it be judicially determined that any section of this article is unconstitutional or otherwise invalid, such determination shall not affect the validity or effect of the remaining provisions of the article.

§ 2. This act shall take effect immediately.

CHAPTER 591

AN ACT to amend the civil service law, in relation to providing for the retirement of certain county and city employees, through the state employees' retirement system.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article five of chapter fifteen of the laws of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," as thus renumbered by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty, is hereby renumbered article six and such chapter is hereby amended by adding thereto a new article five, to read as follows:

L. 1909,
ch. 15,
art. 5, as
renumbered
by L. 1920,
ch. 741,
renumbered
art. 6;
new art. 5
added.

ARTICLE 5.

RETIREMENT OF OFFICERS AND EMPLOYEES IN THE COUNTY AND CITY CIVIL SERVICE.

Section 75. Certain county and city employees entitled to membership in the state employees' retirement system.

76. Membership in state system.

77. Duties of certain fiscal officers.

78. Duties of actuary. Contributions to funds.

79. Retirement benefits.

[80. Creation of new retirement systems forbidden.]*

§ 75. **Certain county and city employees entitled to membership in the state employees' retirement system.** On and after June thirtieth, nineteen hundred and twenty-two, any officer or employee of any county or city of the state of New York, except such employees as are now eligible to participate in a retirement system wholly or partly maintained at the expense of a county or city of the state of New York, shall be entitled to membership in the New York State Employees' Retirement System as provided by article four of this chapter and subsequent amendments thereto. Provided that the officers and employees of any county shall not be included in the state employees' retirement system without the approval of the board of supervisors of any such county, and that the officers and employees of any city shall not be included in the state employees' retirement system without the approval of the local legislative body and the board of estimate and apportionment, or other body having like functions or powers, if there is no board of estimate and apportionment.

§ 76. **Membership in state system.** Membership in the system shall be optional with all such employees in service on June thirtieth, nineteen hundred and twenty-two, and any such employees

* Inserted by editor.

who elect to join the retirement system on or before June thirtieth, nineteen hundred and twenty-three, shall be entitled to a prior service certificate covering service prior to June thirtieth, nineteen hundred and twenty-two, in the same manner as provided under the provisions of paragraph five of section fifty-three of this chapter. Any member of the New York State Employees' Retirement System shall be entitled to credit in a prior service certificate for all service as now provided by paragraph five of section fifty-three of this chapter and in addition he shall be credited in his prior service certificate with any service rendered in the past, which if rendered after this article takes effect, would have entitled him to membership in the New York State Employees' Retirement System. Membership shall be compulsory on all employees entering the service of such counties or cities if membership would have been compulsory had they entered the state service in similar positions.

§ 77. **Duties of certain fiscal officers.** The chief fiscal officer of such county or city shall submit to the comptroller of the state of New York such information and shall cause to be performed in respect to each of the employees of said county or city such duties as would be performed in the state service by the head of a department of the state employing members of the retirement system.

§ 78. **Duties of actuary. Contributions to funds.** The actuary of the state retirement system shall compute the rates of contribution payable by members who are county or city employees in the same manner as if they were state employees and shall compute the contributions which would be payable annually by the state on behalf of such members as though they were state employees. The contributions so computed shall be certified by the state comptroller to the chief fiscal officer of each county or city. The amounts which would be payable by the state on account of such county or city employees, if they were state employees, including a pro-rata share of the cost of the administration of the retirement system, based upon the payroll of the employees of the county or city shall be a charge against the county or city. The county treasurer or corresponding officer of any city shall pay to the state comptroller the amount of such county or city charges so certified, and the amount of the deductions from the compensation of members who are employees of the county or city and the state comptroller shall credit such amounts to the appropriate fund, funds, account or accounts of the New York State Employees' Retirement System.

§ 79. **Retirement benefits.** Employees of the counties or cities on behalf of whom contributions are so paid shall be entitled to benefits under the New York State Employees' Retirement System as though they were state employees.

§ 80. **Creation of new retirement systems forbidden.** No county or city shall hereafter create any officers' or employees' retirement system.

§ 2. This act shall take effect immediately.

CHAPTER 592

AN ACT to amend the civil service law, in relation to retirement of officers and employees in the state civil service.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision eight of section fifty of chapter fifteen of the laws of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," as added by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty, and amended by chapter three hundred and sixty-five of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1909,
ch. 15,
§ 50,
subd. 8, as
added by
L. 1920,
ch. 741, and
amended by
L. 1921,
ch. 365,
amended.

8. State service shall mean service, whether appointive or elective, as an official, clerk, or employee of the state of New York, including service as teacher in the public schools of the state of New York, however paid, and teaching service rendered prior to July first, nineteen hundred and twenty-one, allowable as a prior service credit under any other retirement plan to which the state of New York is a direct contributor to retirement allowances,¹ however paid, and any other branch of service and any former city or county institution now a state institution, so far as such service is paid for by the state of New York or by any such institution, except service on or after the first day of January, nineteen hundred and twenty-one, while such employee is, or may be, entitled to benefit by existing laws providing for pensions or annuities for civil service employees wholly or partly at the expense of the state of New York or of any political subdivision thereof.

State
service
defined.

§ 2. Subdivision one of section fifty-eight of such chapter as added by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty is hereby amended to read as follows:

§ 58,
subd. 1, as
added by
L. 1920,
ch. 741,
amended.

1. The annuity savings fund shall be the fund in which shall be accumulated deductions from the compensation of members to provide for their annuities and their withdrawal allowances. Upon the basis of such tables as the comptroller shall adopt, and regular interest, the actuary of the retirement system shall determine for each member the proportion of annual compensation, which, when deducted from each payment of his prospective earnable annual compensation prior to the age of sixty years and accumulated at regular interest until said age, shall be computed to provide, at that time, an annuity equal to one-one-hun-

Annuity
savings
fund;
deductions
from com-
pensation of
members.

¹ Words " , however paid, and teaching service . . . retirement allowances," new.

dred and fortieth of his final average salary for each year of service as a member after the establishment of the retirement system. Such proportion of compensation shall be computed to remain constant.

The proportion so computed for a member aged fifty-nine years shall be applied to any member who has attained a greater age before entrance into the retirement system.

The comptroller shall certify to the head of each department and said head of each department shall deduct from the annual compensation of each member on each and every payroll of such member for each and every payroll period the proportion of his earnable annual compensation so computed. But the said comptroller shall not certify nor shall the head of any department make any deduction for annuity purposes from the annual compensation of a member who elects not to contribute if he is not less than sixty years of age and has completed not less than thirty-five years of state service. In determining the amount earnable by a member in a payroll period, the comptroller may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period and he may omit deductions from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period; and to facilitate the making of deductions he may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the annual compensation upon the basis of which said deduction is to be made.

The deductions provided herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt in full for his salary or compensation; and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by this article. Said head of each department shall certify to the comptroller on each and every payroll to the amounts to be deducted; and each of said amounts shall be deducted and when deducted shall be paid into said annuity savings fund, and shall be credited, together with regular interest, to an individual account of the member from whose compensation said deduction was made.

Additional
annuity.

In addition to the deductions from compensation hereinbefore provided, any member may redeposit in the annuity savings fund by a single payment an amount equal to the total amount which he withdrew previously therefrom as provided in this article, or any member may deposit therein by a single payment an amount computed to be sufficient to purchase an additional annuity, which, together with his prospective retirement allow-

ance, will provide for him a total retirement allowance of one-half of his final average salary at the age of sixty years, ² or any member may deposit therein, from time to time, amounts permitted so to be deposited by the comptroller for the purpose of purchasing additional annuity, or any member may elect to contribute at a rate greater than that hereinbefore provided, for the purpose of purchasing additional annuity. Such additional amounts so deposited shall become a part of his accumulated contributions, ³ except in the case of disability retirement, in which case they shall be considered as in excess of his accumulated contributions and shall be used in the purchase of an annuity in addition to the retirement allowance which would be otherwise provided. The accumulated contributions of a member, withdrawn by him, or paid to his estate or designated beneficiary in event of his death as provided in this article shall be paid out of the annuity savings fund. Upon retirement of a member, his accumulated contributions, including any excess contributions, ⁴ shall be transferred from said fund to the annuity reserve fund.

§ 3. Section sixty-one of such chapter as added by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty and amended by chapter three hundred and sixty-five of the laws of nineteen hundred and twenty-one, is hereby amended by adding thereto a new subdivision, to be known as subdivision four, to read as follows:

Subd. 4
added to
§ 61, as
added by
L. 1920,
ch. 741.

4. Should a beneficiary receiving a retirement allowance under the provisions of subdivision three of this section, be restored to active service, his retirement allowance shall cease, he shall again become a member of the retirement system, and he shall contribute to the said fund thereafter in the same manner and at the same rate as he had prior to his discontinuance. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement, he shall be credited with all his service as a member subsequent to his last restoration to membership.

Restoration
to active
service
after retire-
ment.

§ 4. Subdivision two of section sixty-two of such chapter as added by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty and amended by chapter two hundred and seven of the laws of nineteen hundred and twenty-one is hereby amended to read as follows:

§ 62.
subd. 2, as
added by
L. 1920,
ch. 741, and
amended by
L. 1921,
ch. 307,
amended.
Superan-
nuation re-
tirement.

2. Any member in the state service attaining the age of seventy years shall be retired on the first day of the calendar month next succeeding such event, except that an employee attaining seventy years of age prior to October thirty-first, ⁴ nineteen hundred and twenty-five may be continued in service from time to time under the above provisions, ⁵ but not beyond October thirty-first, ⁴ nineteen hundred and twenty-five, upon written notice to the comp-

² Remainder of sentence new.

³ Words " , including any excess contributions " new.

⁴ Formerly " June thirtieth."

⁵ Words " under the above provisions " new

troller by the head of the department where such employee is employed. This provision shall not apply to judges, ' justices or employees ' of any court, or to elective officers holding their offices either by election or appointment to fill vacancies, or to official referees.

§ 68, as
added by
L. 1920,
ch. 741,
amended.

§ 5. Section sixty-eight of such chapter as added by chapter seven hundred and forty-one of the laws of nineteen hundred and twenty is hereby amended to read as follows:

§ 68. **Options.** With the exception that no election of an optional benefit shall become effective in case a member dies within thirty days after the filing of an application for a retirement allowance,⁶ until the first payment on account of any benefit is made, the beneficiary, or if he is an incompetent, then his wife, or, if he has no wife, a committee of his estate, may elect to receive such benefit in a retirement allowance payable throughout life, or to receive the actuarial equivalent at that time of his annuity, his pension, or his retirement allowance in a lesser annuity or a lesser pension or a lesser retirement allowance, payable throughout life, with the provision that:

Option 1. If he died before he has received in payments the present value of his annuity, his pension, or his retirement allowance, as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person having an insurable interest in his life, as he, his wife or committee so electing, shall nominate by written designation duly acknowledged and filed with the comptroller.

Option 2. Upon his death, his annuity, his pension, or his retirement allowance, shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he, his wife or committee so electing, shall nominate by written designation duly acknowledged and filed with the comptroller at the time of his retirement.

Option 3. Upon his death, one-half of his annuity, his pension or his retirement allowance, shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he, his wife or committee so electing, shall nominate by written designation duly acknowledged and filed with the comptroller at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the beneficiary or to such other person or persons as he, his wife, or committee so electing, shall nominate, provided such other benefit or benefits, together with such lesser annuity, or lesser pension, or lesser retirement allowance, shall be certified by the actuary of the retirement system, to be of equivalent actuarial value to his annuity, his pension or his retirement allowance, and shall be approved by the comptroller.

§ 73
added.

§ 6. Such chapter is hereby amended by inserting therein, at the end of article four, a new section, to be known as section seventy-three, to read as follows:

⁶ Word " or " omitted.

⁷ Words " or employees " new.

⁸ Sentence to here new.

§ 73. **Transfer of members between systems.** Any member of any retirement system operating on a sound financial basis and subject to the supervision of the insurance department of the state may transfer his membership to the New York State Employees' Retirement System, or any member of the New York State Employees' Retirement System may transfer his membership to another retirement system operating on a sound basis and subject to the supervision of the insurance department of the state upon accepting a position in another branch of the state or municipal service which would make it impossible for him to continue in the retirement system of which he has been a member and which would make it possible for him to participate in another such system.

In order to effect a transfer, he must give notice to the administrative head of the retirement system of which he is a member, prior to his withdrawal from such system, of his intention to enter such other retirement system within one year. Upon his entry into such other system, he shall be admitted without regard to his previous membership in the first retirement system and without credit for prior service except as hereinafter provided. He shall be permitted to deposit in the second retirement system the total amount of his contributions withdrawn from the first retirement system and upon such deposit within one year he or the administrative head of the system to which he desires to transfer shall request the administrative head of the first retirement system to transfer to the second retirement system a credit on account of his membership in such system.

Upon the request for a transfer of credit, the actuary of the first system shall determine the reserve on his benefits as though he had not discontinued membership, as follows: He shall compute the total present value of all benefits allowable under the retirement system as the result of contributions made or to be made by his employer and shall deduct therefrom the present value of the future contributions which would be payable by his employer on his account had he become a member of the retirement system subsequent to its establishment at the age at which he originally entered the service of his employer. The result so obtained shall be considered as the reserve on his account in the first retirement system.

Such reserve shall be transferred from the appropriate fund or funds of the first system to the appropriate fund or funds of the second system within one year from the date of the request for a transfer of credit and he shall then be given such status and be credited with such service in the second retirement system as shall impose a liability on that system in addition to the liability which it would otherwise undertake equal to the reserve so transferred.

§ 7. This act shall take effect immediately.

CHAPTER 593

AN ACT to amend the decedent estate law, in relation to the investment of trust funds.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1908,
ch. 18,
§ 111, as
amended by
L. 1918,
ch. 544,
amended.

Section 1. Section one hundred and eleven of chapter eighteen of the laws of nineteen hundred and nine, entitled "An act relating to estates of deceased persons, constituting chapter thirteen of the consolidated laws," as amended by chapter five hundred and forty-four of the laws of nineteen hundred and eighteen, is hereby amended to read as follows:

§ 111. Investment of trust funds. An executor, administrator, trustee or other person holding trust funds for investment may invest the same in the same kind of securities as those in which savings banks of this state are by law authorized to invest the money deposited therein, and the income derived therefrom, and in bonds and mortgages on unincumbered real property in this state worth fifty per centum more than the amount loaned thereon, and in shares or parts of such bonds and mortgages, provided that any share or part of such bond and mortgage so held shall not be subordinate to any other shares thereof and shall not be subject to any prior interest therein, and provided further that bonds and mortgages in parts of which any fiduciary may invest trust funds together with any guaranties of payment, insurance policies and other instruments and evidences of title relating thereto shall be held for the benefit of such fiduciary and of any other persons interested in such bonds or mortgages by a trust company or title guaranty corporation organized under the laws of this state, and that a certificate setting forth that such corporation holds such instruments for the benefit of such fiduciary and of any other persons who may be interested in such bond and mortgage among whom the corporation holding such instruments may be included, be executed by such corporation and delivered to each person who becomes interested in such bond and mortgage. Every corporation issuing any such certificate shall keep a record in proper books of account of all certificates issued pursuant to the foregoing provisions. An executor, administrator, trustee or other person holding trust funds may require such personal bonds or guarantees of payment to accompany investments as may seem prudent, and all premiums paid on such guarantees may be charged to or paid out of income, providing that such charge or payment be not more than at the rate of one-half of one per centum per annum on the par value of such investments. But no trustee shall purchase securities hereunder from himself. ¹ Whenever any trust funds are invested in the shares of a savings and

¹ Remainder of section new.

loan association, organized under the laws of this state, at the time said funds shall come into the possession of any executor, administrator, trustee or other person, entitled to hold the same, the investment of such funds in the shares of such savings and loan association may be continued, provided, however, the total amount of trust funds invested in the shares of such savings and loan association shall not exceed the amount of its guaranty fund.

§ 2. This act shall take effect immediately.

CHAPTER 594

AN ACT to amend the insanity law, in relation to the retirement of officers and employees of the state hospital system.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and nine of chapter thirty-two of the laws of nineteen hundred and nine, entitled "An act in relation to the insane, constituting chapter twenty-seven of the consolidated laws," as added by chapter four hundred and ninety-nine of the laws of nineteen hundred and eighteen is hereby amended to read as follows:

L. 1909,
ch. 32,
§ 109, as
added by
L. 1918,
ch. 499,
amended.

§ 109. **Definition.** Wherever the state hospital system is mentioned in this act it includes the officers and employees of all the state hospitals, including Dannemora and Matteawan state hospitals; the medical member of the state hospital commission and medical inspectors who have had previous experience in the New York state hospitals and employees of the state hospital commission; the bureau of deportation, ¹ the psychiatric institute and the retirement board.²

§ 2. Sections one hundred and eleven, one hundred and twelve, and one hundred and fifteen of such chapter, as added by chapter fifty-nine of the laws of nineteen hundred and twelve and last amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and eighteen,³ are hereby amended to read as follows:

§§ 111, 112,
115, as
added by
L. 1912,
ch. 59, and
amended by
L. 1918,
ch. 499,
amended.

§ 111. **Retirement of officers and employees.** Any officer or employee of the New York state hospital system for the care of the insane, including the Matteawan and Dannemora state hospitals for criminal insane, who shall have signified his or her intention to take advantage of the provisions of this article and who shall faithfully and honestly discharge his or her duty in one or more of such state hospitals, or state hospital department or in any former city or county asylum, now a state hospital for the insane, or partly in each for twenty-five years, shall upon his or

¹ Word "and" omitted.

² Words "and the retirement board" new.

³ Previously amended by L. 1916, ch. 607.

her application to the retirement board be entitled to retirement; provided, however, in the opinion of such board there is sufficient money in the fund to warrant such retirement. Every applicant must be in the service of the state hospital system for the insane, as hereinbefore provided, at the time application is made for retirement, and shall remain in the said service until notified by the retirement board of his or her retirement. Any person retired pursuant to the provisions of this section must be awarded, granted and paid from said retirement fund an annual amount equal to one-half of the wages or compensation, including maintenance, as fixed by the state hospital commission or by statute received by him or her, for the year immediately preceding the application for retirement, provided, however, that such compensation for maintenance shall not be considered at a higher rate per month than the maximum rate fixed by statute for employees, and provided further ⁴ that no person shall receive such annuity until he or she shall have paid into the said fund, by deductions from his or her wages, or by contributions in full, an amount equal to fifty per centum of his or her first year's annuity, and provided further that any such person who has been reduced in grade, salary, wages or compensation,⁵ after twenty-five years of service shall be retired at the rate of wages and maintenance received by him or her during the twenty-fifth year of service, ⁶ if he or she so elects, and provided further that whenever the retirement fund reserve shall be less than four hundred thousand dollars no annuity shall be paid in excess of fifteen hundred dollars per annum and this provision shall in no way interfere with the retirement of employees in their regular order of application until the retirement fund reserve shall fall to two hundred thousand dollars, after which the retirement board shall act in accordance with its best judgment. Such annuity shall become effective from the first of the month immediately subsequent to the date of the meeting of the retirement board taking action on same, and shall be for the natural life of such person and payable in quarterly instalments, and shall not be revoked, repealed, diminished or subject to claim of creditors. ⁷ Every officer or employee of the state hospital system who has been retired since November first, nineteen hundred and twenty-one and prior to the time that this section as hereby amended takes effect, shall upon application to the retirement board be entitled to receive the benefits enumerated in this section as hereby amended.

§ 112. **Proceedings for retirement; physical disability.** The retirement board shall have power upon its own motion or upon the application in writing of any person entitled to the benefit of the retirement fund to retire any such person who shall have

⁴ Words "such compensation for maintenance shall not be considered at a higher rate per month than the maximum rate fixed by statute for employees, and provided further," new.

⁵ Words "salary, wages or compensation" new.

⁶ Remainder of sentence formerly read: "and provided further that no annuity shall exceed the sum of fifteen hundred dollars per annum."

⁷ Following sentence new.

faithfully and honestly discharged his or her duties in any department of the state hospital system including the Matteawan and Dannemora state hospitals for criminal insane, or former city or county asylum now a state hospital, or partly in each for twenty-five years, or who shall have performed such duties for fifteen years or more, faithfully and honestly and who shall have become mentally or physically incapacitated by reason of accident or illness, provided, however, that reasonable notice in writing, shall be given by the board or one of its members of its proposed action, to the person intended to be retired and an opportunity afforded to such person to be heard before the final action is taken by such board, and said board shall certify in writing the reason for such retirement, and that the best interests of the public service demand the same. To aid in such determination, the board may cause the person intended to be retired, to be physically examined by the medical examiners hereinafter provided for. Any person retired pursuant to the provisions of this section must be awarded, granted and paid from said retirement fund an annual amount equal to as many twenty-fifths of one-half of the wages or compensation, including maintenance received by him or her for the year immediately preceding the application for retirement as he or she has served years, provided, however, in the opinion of the retirement board, there is sufficient money in the fund to warrant such retirement, and provided further that no person shall receive such annuity until he or she shall have paid into said fund by deductions from his or her wages or salary or by contribution in full an amount equal to fifty per centum of his or her first year's annuity.⁸ Such annuity shall become effective from the first of the month immediately subsequent to the date of the meeting of the retirement board taking action on same, shall be payable in quarterly installments and shall not be diminished or subject to the claim of creditors. Officers or employees retired for disability under the provisions of this section shall be subject to an examination by a medical examiner or board appointed by the retirement board, or by the retirement board itself; and in the event of an officer or employee retired becoming able to perform active service again, he or she may be reinstated by the superintendent or other appointing power on a certificate of the retirement board that such retired officer or employee is again able to perform duty, and such annuity shall cease upon the date of such reinstatement.

§ 115. **Contributions to retirement fund.** Every officer or employee of the New York state hospital system for the insane who shall have signified his or her intention to take advantage of the provisions of this article shall contribute to said fund and the treasurer or other officer of the state hospital system as hereinbefore provided shall at the end of the first full calendar month after this section as hereby amended takes effect deduct and retain monthly from the wages and maintenance of such persons and pay

⁸ Words " , and further provided that no such annuity shall exceed fifteen hundred dollars per annum," omitted.

to the comptroller of the state of New York who shall credit the said fund by amounts as follows: Persons who have performed such duty for less than five years, one per centum. Persons who have performed such duty for more than five years and less than ten years, one and one-half per centum. Persons who have performed such duty for more than ten years and less than fifteen years, two per centum. Persons who have performed such duty for more than fifteen years and less than twenty years, two and one-half per centum. Persons who have performed such duty for more than twenty years, three per centum. Such payments shall cease when a person has paid for twenty-five years, or who has been retired pursuant to the provisions of this article. Every person to whom this article applies who shall have signified his or her intention to take advantage of this article, who shall continue in the employ of the New York state hospital system for the insane after this article takes effect, as well as every person to whom this article applies who may hereafter be appointed to a position or place, shall be deemed to consent and agree to the deductions made and provided for herein, and shall receipt in full for the wages, pay or compensation which shall be paid monthly or at any other time, and such payment shall be a full and complete discharge and acquittance of all claims or demands whatsoever for the services rendered by such person during the period covered by such payment, notwithstanding the provisions of any other law, rule or regulation affecting the wages, pay or compensation of any person or persons employed in the New York state civil service to whom this article applies. Every officer or employee entering the service of the New York state hospital system on and after the first day of the calendar month after this section as hereby amended takes effect and who is not for any reason exempted from the benefits of this article, shall contribute and continue to contribute thereto to the retirement fund at the rate of two per centum per month of his or her wages including maintenance, except maintenance shall not be considered in computing contributions or annuities of officers at any higher rate than the maximum fixed by statute for employees.⁹ All officers and employees participating in the retirement fund at the time this section as hereby amended takes effect or employed hereafter or reinstated shall, subject to the provisions of this act, continue to participate while they remain in the state hospital system. All officers and employees in the state hospital system prior to the twenty-second day of March, nineteen hundred and twelve, who are not participants in the retirement fund may become such by signifying their desire to do so to the retirement board within the thirty days next following the time this section as hereby amended takes effect and shall continue to be participants while they remain in the state hospital system.

§ 3. Such chapter is hereby amended by inserting therein, at the end of article five, a new section, to be section one hundred and twenty-three, to read as follows:

⁹ Words "at any higher rate than the maximum fixed by statute for employees," new.

§ 123. **Suspension of annuity.** The payment of annuity shall be suspended during the time any retired officer or employee is in receipt of other compensation for state service.

§ 4. This act shall take effect immediately.

CHAPTER 595

AN ACT to amend the inferior criminal courts act of the city of New York, in relation to appeals from city magistrates.

Accepted by the City.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one of chapter six hundred and fifty-nine of the laws of nineteen hundred and ten, entitled "An act in relation to the inferior courts of criminal jurisdiction in the city of New York, defining their powers and jurisdiction and providing for their officers," as last amended by chapter six hundred and seventy-nine of the laws of nineteen hundred and thirteen, is hereby amended by adding two new subdivisions thereto, to be known as subdivisions six and seven thereof, and to read as follows:

Subds. 6, 7
added to
L. 1910,
ch. 659,
§ 31.

6. It shall have power to allow, hear and determine appeals from a judgment, order or other determination of a city magistrate.

Jurisdic-
tion.

7. It shall have power pending the hearing and determination of an appeal to admit the defendant to bail, if satisfied that there is a reasonable doubt whether the conviction, order or other determination should stand, but not otherwise.

§ 2. Section thirty-four of said act, as last amended by chapter five hundred and thirty-one of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:

§ 24, as
amended by
L. 1915,
ch. 531,
amended.

§ 34. **Parts of court; by whom held.** Except as hereinafter provided each part of the court shall be held by three justices, at least one of whom shall be resident within the judicial department of the supreme court in which said part is held and any determination, order or judgment of two of them shall be the determination, order or judgment of the court; provided, however, that the chief justice or any associate justice may be assigned to and is empowered to hold any part of the court for the purpose of taking pleas, or disposing of motions preliminary to trials or hearing reports as to defendants released upon probation, and each justice when so assigned shall have all the powers of the court of special sessions to sentence a defendant upon a plea of guilty, suspend sentence or place upon probation. ¹ The chief justice shall establish a part for the hearing of appeals from judgments, orders or other determinations of city magistrates; he shall from time to time assign thereto three justices to sit therein; and the board of

¹ Remainder of section new.

justices shall make appropriate rules relative to the allowance and hearing of such appeals, and the granting of bail in cases where there is reasonable doubt.

§ 74,
subd. d, as
amended by
L. 1919,
ch. 339,
amended.

§ 3. Subdivision d of section seventy-four of said act, as last amended by chapter three hundred and thirty-nine of the laws of nineteen hundred and nineteen,³ is hereby amended to read as follows:²

d. Appeals in disorderly persons proceedings. An appeal from an order, decision or judgment under this section may be taken either by a defendant or by the complainant to the court of special sessions as provided by section ninety-four, except that the court allowing the appeal on behalf of the defendant must take from the defendant a written undertaking to the city of New York in such sum and with such sureties as he may approve, or in lieu thereof a deposit of cash or liberty bonds, that the defendant will abide the judgment of the appellate court upon the appeal, and except that all notices required by law to be served upon the district attorney upon an appeal shall upon such appeal be served upon the corporation counsel of the city of New York. If the defendant has given an undertaking to comply with the order of the domestic relations court or has deposited cash or liberty bonds in lieu thereof no undertaking on appeal shall be required. No appeal taken by a defendant under this section shall operate as a stay of proceedings and no stay herein shall be granted. If a new trial be ordered it must be had in the court from which the appeal was taken. When the appeal is taken by the complainant the affidavit for the allowance of the appeal shall be made by, and all other proceedings shall be taken by the corporation counsel.

If the judgment on the appeal be against the complainant the complainant may appeal therefrom to the appellate division of the supreme court in the same manner as the defendant.

§ 94, as
amended by
L. 1915,
ch. 531,
amended.

§ 4. Section ninety-four of said act, as last amended by chapter five hundred and thirty-one of the laws of nineteen hundred and fifteen, is hereby amended to read as follows:⁴

§ 94. Appeals from city magistrates. All provisions of law conferring the right of appeal and prescribing the procedure on appeal from any judgment, order or other determination of a city magistrate, including a commitment under section four hundred and eighty-six of the penal law or of any court held by a city magistrate in force when this act takes effect, shall apply to and regulate all appeals, and the right of appeal in all cases hitherto existing is hereby preserved and continued. All powers hitherto existing in the court of general sessions of the peace in the county of New York and in the county courts in the other counties comprised within the city of New York, to affirm, reverse or modify a judgment, order or other determination of a city magistrate of the city of New York, are hereby vested in the court

³ Previously amended by L. 1911, ch. 861; L. 1913, ch. 699; L. 1914, ch. 464; L. 1915, ch. 531.

² Subd. d materially amended.

⁴ Section 94 materially amended.

of special sessions of the city of New York. The return on such appeal shall be filed in the office of the clerk of the court of special sessions and all orders relating thereto shall be made by the court of special sessions or by a justice thereof. Upon the reversal of any judgment, order or other determination of a city magistrate the court of special sessions may send back the cause for a new trial to the city magistrates' courts.

§ 5. This act shall take effect July first, nineteen hundred and twenty-two.

In effect
July 1,
1922.

CHAPTER 596

AN ACT to amend chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled "An act to revise the charter of the city of Oswego," generally, and abolishing certain offices and positions in the city government.¹

Not accepted by the City.

Passed without the acceptance of the City.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four of chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled "An act to revise the charter of the city of Oswego," as last amended by chapter three hundred and forty-nine of the laws of nineteen hundred and fifteen,² is hereby amended to read as follows:

L. 1895,
ch. 394,
§ 4, as
amended by
L. 1915,
ch. 349,
amended.

§ 4. The officers of the city shall be as follows: Elective officers: One mayor, one recorder, two justices of the peace, two constables; appointive officers: A city chamberlain, a city clerk, a city attorney, a city engineer, a janitor of the city hall, four commissioners of charity, one commissioner of works, four commissioners of free common schools, one commissioner of public safety, a harbor-master, four commissioners of water, a superintendent of water, five commissioners of water service, a chief of police, a captain of police, and so many additional regular policemen as are hereinafter authorized by this act, a police matron, a janitor of police station, three assessors, a chief engineer of the fire department, a fire marshal, a keeper of the city almshouse, two poundmasters, a sealer of weights and measures, and so many commissioners of deeds as the common council shall designate according to law; and the following officers for each ward: Elective officers: One alderman and one supervisor; and appointive officers: Such election officers as are prescribed by the general election law.

City
officers.

Ward
officers.

§ 2. Section five of such chapter, as last amended by chapter three hundred and forty-nine of the laws of nineteen hundred and fifteen,³ is hereby amended to read as follows:

§ 5, as
amended by
L. 1915,
ch. 349,
amended.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1902, ch. 207; L. 1906, ch. 300.

³ Previously amended by L. 1897, ch. 263; L. 1902, ch. 207.

Eligibility
to office.

§ 5. No person shall be eligible to hold, or be elected or appointed to any office in and for the city of Oswego, except the office of keeper of the city almshouse and police matron, or in or for any ward or district of said city, unless he or she shall be at the time an elector and a resident of the said city, ward or district. No person shall be eligible to be elected to or voted for or appointed to the office of mayor, recorder, commissioner of free common schools, commissioner of public safety, commissioner of charity, commissioner of water service, commissioner of water, superintendent of water, members of the department of assessments, members of the board of aldermen, or supervisors, unless at the time of his nomination for or his appointment to such office, he shall have been assessed upon the last preceding assessment rolls of said city for real or personal property belonging to him in his own name and right, in fee simple, to the amount of at least two hundred and fifty dollars; or is the husband of a woman who is the owner of real or personal property belonging to her in her own name and right in fee simple to the amount of at least two hundred and fifty dollars and for which she was assessed upon the last preceding assessment rolls of said city; and whenever any officer shall cease to be a resident of said city or ward or district for which he or she was elected or appointed, the office shall thereby become vacant.

Effect of
change of
residence.

§ 62, as
amended by
L. 1906,
ch. 300,
amended.

Vacancy in
office of
mayor.

§ 3. Section sixty-two of such chapter, as amended by chapter three hundred of the laws of nineteen hundred and six, is hereby amended to read as follows:

§ 62. In the event of the death of the mayor, and until the vacancy caused thereby shall be filled by election, the following shall be the order of succession to such office: First, the commissioner of public safety; second, president of the department of education; third, president of the department of water; fourth, president of the department of charity; and a special election to fill a vacancy in the office of mayor shall be called as provided in this act and held without unnecessary delay.

§ 119, as
amended by
L. 1918,
ch. 349,
amended.
Depart-
ments.

§ 4. Section one hundred and nineteen of such chapter, as last amended by chapter three hundred and forty-nine of the laws of nineteen hundred and fifteen,⁴ is hereby amended to read as follows:

§ 119. There shall be the following departments:

1. Department of works.
2. Department of education.
3. Department of fire and police.
4. Department of charity.
5. Department of assessments.
6. Department of water.
7. Water service commission.
8. Department of public safety.

§§ 178, 179
amended.

§ 5. Sections one hundred and seventy-eight and one hundred and seventy-nine of such chapter are hereby amended to read, respectively, as follows:

⁴ Previously amended by L. 1902, ch. 207.

§ 178. The offices of police commissioner and fire commissioner are hereby abolished, to take effect on the first day of January, eighteen hundred and ninety-six. There shall be one commissioner of public safety of said city who shall be appointed by the mayor of said city within thirty days after this section as hereby amended takes effect for a term ending December thirty-first, nineteen hundred and twenty-seven, and until his successor shall be appointed and qualified, and who shall constitute the department of fire and police. Commissioner of public safety.

Thereafter the term of such commissioner shall be six years from the first day of January of the year in which he shall be appointed, and such appointment shall be made in January of the year following the expiration of the term of such commissioner. Such commissioner shall receive an annual salary of eight hundred dollars, payable in equal monthly installments, which shall be in full compensation for all services rendered by him. The commissioners of fire and police in office at the time this section as hereby amended takes effect shall continue in office until the commissioner of public safety herein directed to be appointed shall be appointed and qualifies, at which time their respective terms of office shall expire and their offices be deemed abolished.

§ 179. A vacancy in the office of commissioner of public safety shall be filled by appointment by the mayor for the unexpired term. Vacancy.

§ 6. Section one hundred and eighty of such chapter, as amended by chapter four hundred and ninety-nine of the laws of nineteen hundred and seven, is hereby amended to read as follows: § 180, as amended by L. 1907, ch. 499, amended.

§ 180. Said commissioner of public safety shall constitute the department of fire and police of the city of Oswego, and shall exercise the powers and fulfill the duties connected with and incident to the police government and discipline of said city, and also connected with and incident to the control, government and discipline of the fire department of said city, as hereinafter more specifically provided. Powers and duties.

§ 7. Sections one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-four, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-eight of such chapter are hereby amended to read, respectively, as follows: §§ 181-184, 186-188 amended.

§ 181. The commissioner of public safety may be removed for official or other misconduct, in the same manner as sheriffs may be removed, but not otherwise. Removal.

§ 182. The common council of the city of Oswego shall provide suitable rooms in the city hall for the transaction of the business committed to the department of fire and police. Quarters.

§ 183. On or before the first of May each year the department of fire and police shall make and certify to the common council an estimate of the amount to be raised for the current year to be disbursed for the benefit of the city under the supervision of said department of fire and police, stating the amount required for the Annual estimate for department of fire and police.

" fire protection fund " and the " police fund ", each separately. Such estimate shall not exceed the sum of thirty-five thousand one hundred and thirty dollars for the " fire protection fund " except as hereinafter provided, nor the sum of twenty-six thousand eight hundred and ninety dollars for the " police fund " except under the conditions provided by this act.

Payment
of claims
and de-
mands.

§ 184. The department of fire and police shall pay all claims and demands duly audited by it only by warrants drawn on the city chamberlain against funds in his hands subject to the drafts of such department, signed by said commissioner of public safety and countersigned by his clerk, and every warrant so drawn shall be made payable to the order of the person entitled to receive the money thereon.

Sale and
disposal of
property.

§ 186. The said commissioner shall have power to sell and dispose of any of the fire department property under his direction and control, except real estate, when in his judgment the interests of the said city will be promoted thereby, and the avails of such sales shall be paid to the city chamberlain and by him placed to the credit of the fire protection fund.

Rules and
regulations.

§ 187. The commissioner of public safety shall make such rules and regulations as he may deem best, for the good government of the fire and police departments.

Control of
property.

§ 188. Upon the appointment of the commissioner of public safety, as authorized by this act, all the property and effects owned by the city of Oswego in the use and occupation or which may be obtained for such use of the fire department and police department thereof, shall be under the direction, control and management of said commissioner of public safety; and also all moneys required by any law of this state to be paid by the agents of insurance companies, or by insurance companies for the use and benefit of the fire department of the cities and incorporated villages of the state, shall thereafter be paid to the chamberlain of the city of Oswego, and shall be credited by him to the fire protection fund of said city, and shall be expended by the said commissioner of public safety for the use and benefit of the fire department of said city, and for the defraying of its expenses.

Insurance
moneys.

§ 190, as
amended by
L. 1917,
ch. 478,
amended.
Fire com-
panies.

§ 8. Section one hundred and ninety of such chapter, as amended by chapter four hundred and seventy-eight of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 190. The department shall maintain fire companies, and appoint a sufficient number of able-bodied and reputable inhabitants of the city of Oswego firemen to belong to such companies, and an ambulance driver and shall pay them a reasonable compensation for their services, and such ambulance driver is hereby made a member of the fire department of the city of Oswego. Said commissioner of public safety shall appoint one of said firemen chief engineer of the fire department, who shall, under the direction of the commissioner of public safety, have full control of the fire department; and the commissioner shall also appoint one of said firemen, who shall act as assistant to the chief engineer in the management and control of the fire companies and fire apparatus

during the extinguishment of fires. The said department shall pay the chief engineer, his assistant, the steam engineers, stokers, drivers and foremen and assistant foremen of the companies such compensation as shall be just and reasonable. The department shall have power to remove any of its appointees provided for in this section, in the manner provided in, and subject to all the provisions and conditions of, section two hundred and one of this act relating to the removal of policemen. The chief engineer of the fire department, his assistant, and the firemen and permanent appointees composing the fire companies of the fire department of the city of Oswego at the time when this section as hereby amended takes effect, shall constitute the chief engineer of the fire department, his assistant, and the firemen and appointees of the fire department under this act, and such officers, firemen and appointees shall, for the purposes of this act, be deemed the appointees of the department of fire and police, subject to the provisions of this act.

§ 9. Section one hundred and ninety-three of such chapter is hereby amended to read as follows: § 193 amended.

§ 193. Whenever any building in the city is on fire it shall be lawful for the chief engineer or acting chief engineer, with the concurrence of the mayor, the commissioner of works or the commissioner of public safety, to order and direct the same, or any other building which they may deem likely to take fire and convey the same to other buildings, to be torn down or blown up and destroyed; and no action shall be maintained against any person therefor; but any person interested in any such buildings so destroyed or injured may, within three months thereafter, apply to the common council to assess and pay the damages he has sustained. At the expiration of three months, if any such application shall have been made in writing to the common council, the same proceedings shall be had to determine whether any and what damages have been sustained by such claimant as are prescribed by this act for the appropriation of land for laying out, altering, widening or straightening streets. The damages so awarded, if any, shall be added, levied and raised with the next general annual tax, and when received shall be paid by the common council and received by the claimants in full of all claim and demand of damages for or on account of the injury to or destruction of the said building.* Demolition of buildings in case of fire.

§ 10. Section one hundred and ninety-four of such chapter, as amended by chapter two hundred and sixty-three of the laws of eighteen hundred and ninety-seven, is hereby amended to read as follows: § 194, as amended by L. 1897, ch. 263, amended.

§ 194. The commissioner of public safety may, in any year at or before the time of presenting his requisition and estimate of sums necessary for fire protection purposes for that year, present to the common council a special requisition for a sum not exceeding one thousand dollars in addition to all other sums appropriated for such purpose; to be expended only for new apparatus or new equipment by said department. If such requisition is approved Tax for fire protection fund.

* So in original. [Evidently should be "buildings."]

by a vote of six members of the common council, and by the mayor, such sum so requested shall be placed in the annual tax levy for that year and assessed and collected as other moneys for fire protection purposes and in addition thereto such sum shall be separately credited by the city chamberlain to the fire protection fund and paid out by him only upon orders duly drawn by the commissioner of public safety against such separate fund, and certified on the face of each order drawn against said separate fund that the same is drawn pursuant to the provisions of this section of this act. A separate and detailed statement shall be rendered by the commissioner of public safety, with his quarterly and annual statement, showing the several purposes for which the said separate fund or any portion of the same has been expended.

Statements
as to fund.

§ 195, as
amended by
L. 1909,
ch. 593,
amended.

Policemen
and patrol
driver.

§§ 196, 198,
201, 204, 207
amended.

Temporary
policemen;
powers.

Compensa-
tion of
policemen.
Chief of
police.

§ 11. Section one hundred and ninety-five of such chapter, as amended by chapter five hundred and ninety-three of the laws of nineteen hundred and nine, is hereby amended to read as follows:

§ 195. The commissioner of public safety shall maintain in service not less than twelve nor more than sixteen regular policemen, and the patrol driver, who shall constitute the police of the city of Oswego. The commissioner may, when deemed necessary by him, appoint extra members of the police department not exceeding sixteen, who shall serve for such time as the said commissioner shall deem necessary, not to exceed ten days, and who shall be entitled to receive a compensation to be fixed by said commissioner, the expense of which shall be raised and paid in the manner provided for the payment of regular policemen in this act.

§ 12. Sections one hundred and ninety-six, one hundred and ninety-eight, two hundred and one, two hundred and four and two hundred and seven of such act are hereby amended to read, respectively, as follows:

§ 196. The commissioner may also appoint, in extraordinary emergencies, an additional number of policemen, to hold their appointment until discharged by the commissioner. The policemen appointed under this act shall have the same power and authority as constables now have by law, except as to civil process and proceedings, and shall be subject to the same liabilities and regulations, except as herein otherwise provided; and the chief of police and policemen of said city shall execute the orders and commitments of the courts held by the recorder, and may convey all persons sentenced by him to jail, penitentiary or house of refuge.

§ 198. The regular policemen shall receive for their services such compensation as shall be fixed by the commissioner of public safety. The commissioner of public safety shall select from the policemen appointed by him one who shall be chief of police, whose duty it shall be, under the direction of the commissioner of public safety, to superintend the police department in said city, of which he shall be chief executive officer. He shall keep a record in a book of all cases and legal proceedings in his de-

partment, and of all services performed by him and the several policemen. He shall at least once in every month report to the commissioner of public safety the state of the police department, and whether any member of his force is delinquent in his duties. The commissioner of public safety shall appoint a captain of police, to be selected from the regular policemen appointed by him who shall, under the direction of the chief of police, perform any services and exercise any control which the chief of police might in the management and operation of the department. The chief of police, the captain of the night watch, as captain of police, and the policemen, in office when this section as hereby amended takes effect, shall continue in their respective offices and positions, subject, however, to the provisions of this act.

Captain of
police.

Incumbents
continued.

§ 201. The chief of police, the captain of police, each policeman and special policeman shall, before he enters upon the discharge of his duties, take, subscribe and file in the office of the county clerk of Oswego county, the constitutional oath of office. The chief of police, the captain of police and policemen shall hold office during good behavior, but any of said officers may be retired from the service by the commissioner of public safety at any time after such officer shall arrive at sixty-five years of age, or shall at any time become unable to pass a satisfactory examination as to good health and sound body, such as the rules of said department require of an officer upon entering said force, and for the latter purpose, said officers, or either of them, shall, whenever required by said commissioner of public safety, submit to examination by a physician or physicians appointed for that purpose by said commissioner of public safety; but nothing herein contained shall be construed to authorize the dismissal of an officer on account of temporary illness or temporary disability incurred while in the performance of his duty. Any one of the members of said fire department or police department may be removed by the commissioner of public safety on proof of charges preferred in writing, of illegal, corrupt, or otherwise improper conduct, on which he has had an opportunity to be heard in his own defense, and pending such charge, the commissioner of public safety may suspend the party thus charged from duty, and upon hearing and examination of such charges, the commissioner of public safety shall have the power to hear evidence, to bring before him persons, books and papers, by subpoena, as provided by sections four hundred and four and four hundred and six of the civil practice act and the enforcement of obedience to said subpoena, and the penalty for a violation thereof or refusal to be sworn and testify upon such hearing, shall be the same and conducted in the same manner as provided by section four hundred and six of the civil practice act, and said commissioner of public safety shall have power to administer an oath for the purpose of said examination, as provided by section three hundred and fifty-eight of the civil practice act. A witness who testifies falsely upon such examination is guilty of perjury in a like case, and is punishable in like manner, as

Oath of
office.

Terms and
retirement.

Removal
for cause.

Hearing.

Temporary
suspensions.

upon the trial of a civil action. The commissioner of public safety may also, for disobedience of his orders or other offense not involving corrupt criminal conduct, suspend temporarily from duty or pay, or both, any policeman or fireman.

Rules and
regulations.

§ 204. The commissioner of public safety shall make such rules and regulations as may be necessary for the government of the police force and the fire department and for the maintenance of law and good order in the said city of Oswego not inconsistent with the city ordinances.

Special
policemen.

§ 207. The said commissioner of public safety may, on the request of any person, company or corporation, appoint for a definite period of time such number of special policemen as he may deem necessary, and the said special policemen shall be authorized to make arrests in the same cases as other policemen of said city, but shall not be entitled to any compensation from the city for their services. Such special policemen shall be under the control of the commissioner of public safety, of the city, and shall be liable to be removed by said commissioner at any time in his discretion.

§§ 213a,
213b-213e,
213g, as
added by
L. 1904,
ch. 285, and
amended by
L. 1915,
ch. 875,
amended.

§ 13. Sections two hundred and thirteen-a, two hundred and thirteen-c, two hundred and thirteen-d, two hundred and thirteen-e, and two hundred and thirteen-g of such chapter, as added by chapter two hundred and eighty-five of the laws of nineteen hundred and four and amended by chapter five hundred and seventy-five of the laws of nineteen hundred and fifteen, are hereby amended to read, respectively, as follows:

Fire and
police pen-
sion fund;
trustees,
duties.

§ 213-a. The mayor of the city of Oswego for the time being, and his successors in office, the commissioner of public safety of the city of Oswego for the time being, and his successors in office, and the chamberlain of the city of Oswego for the time being, and his successors in office, shall constitute a board of trustees of the fire and police pension fund hereinafter mentioned. The mayor of the city of Oswego shall be president of said board and the clerk of the department of fire and police of the city of Oswego shall be secretary of said board of trustees of the police and fire pension fund. The chamberlain of the city of Oswego shall be the treasurer of said police and fire pension fund. Such board of trustees shall have charge of and administer said fund, and from time to time invest the same or any part thereof, as they shall deem most beneficial to said fund and are empowered to make all necessary contracts and take all necessary and proper action and proceedings in the premises and to make payments from said fund of pensions granted in pursuance of this chapter. The said trustees shall, from time to time, establish such rules and regulations for the administration of the fire and police pension fund as they may deem best. They shall report in detail the condition of the fund at the close of each fiscal year of the fire and police department, through their secretary, to the common council, and said report shall be published with the annual report of the fire and police department. No payments whatever shall be allowed or made by said trustees as rewards, gratuities

No com-
pensation.

or compensation to any person or persons for salary or services rendered to or for said board of trustees.

§ 213-c. The commissioner of public safety shall retire and dismiss from membership in the said police force and fire department, and thereupon grant pensions as hereinafter provided to all members of the said police force and fire department who are over sixty-five years of age; and shall retire and dismiss from membership in the said police force and fire department, and thereupon grant pensions as hereinafter provided to each and every member of said police force and fire department upon his reaching the age of sixty-five years, and shall have power in his discretion to retire and dismiss from membership in the said police force and fire department and thereupon grant pensions as hereinafter provided, to any member of the police force or fire department of said city who shall have become disabled physically or mentally and to widows and orphans of such members, to be paid from the fire and police pension fund by the board of trustees thereof, as follows:

Retirement
of members
on pension.

1. To the widow of any member of the police force or fire department who shall die while a member of such force or department, the sum of two hundred and fifty dollars absolute; but if there be no such widow, then such sum may be divided between the child or children under eighteen years of age, of such member of said police force or fire department in such proportion and in such manner as the department may direct, or may be paid in whole or part to any dependent relative or relatives in the discretion of said department;

Widow's
pension.

2. To any member of such police force or fire department who while in the actual performance of duty and by reason of the performance of such duty and without fault or misconduct on his part shall have become permanently disabled, physically or mentally, so as to be unfitted to perform full police or fire duty, not more than one-half of the salary of such member shall be paid to him annually during his lifetime;

Pension of
disabled
member.

3. To any member of such police force or fire department retired by reason of having passed or reached the age limit set forth above not more than one-half of the salary of such member shall be paid to him annually during his lifetime.

Pension on
passing age
limit.

§ 213-d. The commissioner of public safety may release, and dismiss from the force and service, any member of the police force or fire department upon a certificate of the police and fire surgeon or surgeons showing that such member, of whatever age, who has served twenty years, is permanently disabled, physically or mentally so as to be unfit for duty, and place upon the roll of the fire and police pension fund and award and grant to be paid to such member, from said fire and police pension fund, an annual pension during his lifetime of not more than one-half of the full salary or compensation of such member so retired. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked, repealed or diminished.

Release and
dismissal of
members.

§ 213-e. The commissioner of public safety may, in his discretion, order any pension granted, or any part thereof to cease,

When pen-
sion to
cease.

except in the case of members of the fire department or police force retired after twenty years' service or for having reached the age of sixty-five years as provided in the last preceding section, but in all such cases the said commissioner shall file with the trustees of the fire and police pension fund, a written statement of the causes which determined him in ordering any pension to so cease and nothing herein contained shall render the granting or payment of such pensions obligatory on the commissioner of public safety or upon the trustees of the fire and police pension fund, or chargeable as a matter of right upon said fire and police pension fund, except as provided in the last preceding chapter.*

Fire and
police
surgeons.

§ 213-g. The commissioner of public safety of the city of Oswego is hereby authorized to appoint two fire and police surgeons who shall serve without pay, salary or compensation, except that each surgeon may be allowed the sum of five dollars for each and every examination of members of the police force and fire department of the city of Oswego and issuing a certificate under the provisions of this act, to be paid by the member of the police force or fire department so examined or by the commissioner of public safety in the discretion of said department.

§ 280,
subds. 5, 6
amended.

§ 14. Subdivisions five and six of section two hundred and sixty of such chapter are hereby amended to read as follows:

5. Police fund. A sum not exceeding twenty-six thousand eight hundred and ninety dollars, except under the conditions† provided by this act, to defray the expenses of the police department of said city.

6. Fire protection fund. A sum not exceeding thirty-five thousand one hundred and thirty dollars, to defray the expenses of the fire department of said city.

Subd. 8d
added to
§ 260.

§ 15. Section two hundred and sixty of such chapter is hereby amended by inserting after subdivision eight-c, a new subdivision, to be subdivision eight-d, to read as follows:

8-d. Public safety fund. A sum not exceeding two thousand dollars as the department of public safety shall certify to the common council for the expenses of said department. The sum certified and raised under this subdivision shall in no way affect or diminish the police fund or fire protection fund or funds raised or expended pursuant to the powers granted under the public health law.

Title 18
added.

§ 16. Such chapter is hereby amended by adding thereto a new title, to be title eighteen, to read as follows:

TITLE XVIII.

DEPARTMENT OF PUBLIC SAFETY.

§ 417. **Commissioner of public safety; appointees.** The commissioner of public safety shall be head of the department of public safety. He may appoint, each to hold office during his pleasure,

* So in original. [Evidently should be "section."]

† So in original. [Evidently should be "provisions."]

a health officer, a clerk and three inspectors or subordinates, prescribe their duties, and, subject to the provisions of this section, fix their salaries from time to time. The salary of said clerk shall not exceed five hundred dollars annually. The clerk, in addition to other duties prescribed by the commissioner shall keep separate records in due form of the department of fire and police and of the board of health. The salaries of such three inspectors or subordinates shall not exceed in each case the sum of fifteen hundred dollars annually. All such salaries shall be payable monthly. The said commissioner may in his discretion from time to time employ such physician or physicians, nurse or nurses as he deems necessary, whose salaries and duties shall be fixed by him from time to time as in his discretion he may deem best.

§ 418. **Duties of commissioner.** The commissioner of public safety shall have cognizance, jurisdiction, supervision and control of the government, administration, disposition and discipline of the police department, fire department and board of health, and of the officers and members of said departments and board, and shall possess and exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance and direction of said departments and board, and the apparatus and property thereof and building furnished therefor, and shall have the general direction and supervision of the expenditure of all moneys appropriated to said departments and board. He shall also have all the powers and duties hereinafter enumerated and such other duties as may be prescribed by law or by ordinance of the common council.

§ 419. **Constitution of police and fire departments.** The police and fire departments shall, as to their membership and component parts, remain as now constituted. The commissioner shall appoint, as vacancies in said department occur, all officers and members thereof.

§ 420. **Exemptions.** No member of the police or fire department shall be liable to military or jury duty or to arrest on criminal or civil process while on duty.

§ 421. **Pension funds.** The provisions of law governing the establishment and maintenance of pension funds for the benefit of members of the police and fire departments shall be unimpaired by this act.

§ 422. **Board of health.** The commissioner of public safety shall exercise all the powers and be charged with all the duties conferred upon or required of local boards of health by the laws of this state, so far as the same pertain to cities of the third class, with the exceptions, limitations and additions herein contained.

§ 423. **Health officer.** No person shall be eligible to appointment as health officer unless he shall be a competent physician and surgeon duly licensed to practice under the laws of this state. The health officer shall possess such powers and perform such duties as shall be delegated to him or prescribed by the commissioner of public safety, or by ordinance of the common council.

§ 424. **Appeals from orders of health officer.** Any person

aggrieved by an order, decision or direction of the health officer, may appeal therefrom to the commissioner, who may affirm, reverse or modify the order, decision or direction appealed from. Such appeal must be made by serving on the health officer a written notice of appeal within three days, Sundays and legal holidays excepted, or within such further time as shall be allowed by the commissioner after the appellant received notice of the order, decision or direction appealed from. Within three days after receiving such notice of appeal, Sundays and legal holidays excepted, the health officer shall make a written return to the commissioner of the facts and evidence on which such order, decision or direction is founded. Upon receipt of such return, or if no return be made within the time specified, the commissioner shall forthwith proceed to hear and determine the matter. Upon such appeal the commissioner need not be confined to the evidence contained in the return but in his discretion may take additional evidence. Until the decision of this appeal be made, the order, decision or direction appealed from shall be suspended. In case of failure to sustain the appeal, the commissioner may, in his discretion, impose costs not exceeding ten dollars upon the appellant.

§ 425. **Actions to restrain nuisances.** The commissioner is authorized, by and with the advice and consent of the city attorney, in the name of the city, to maintain actions to restrain the threatened performance of any act contrary to his orders, directions, decisions or ordinances and to restrain and abate nuisances; and for the purpose of obtaining a temporary injunction in any such action no undertaking shall be required.

§ 426. **Duty in case of peril to public health.** In case of great and imminent peril to the public health of the city, by reason of impending pestilence, it shall be the duty of the commissioner, with the sanction of the common council, if it be practicable to convene that body for prompt action, or if not, when approved by the mayor, to take such measures, and to do, order, or cause to be done, such acts, and to make such extraordinary expenditures in excess of the sum appropriated to the department of health, as he may deem necessary and proper. Such peril to public health shall be deemed to exist only when and for such period as the commissioner and the common council by unanimous vote, shall determine.

§ 427. On or before the first of May in each year the department of public safety shall make and certify to the common council an estimate of the amount to be raised for the current year to be disbursed for the benefit of the city under the supervision of such department. Such estimate shall not exceed the sum of two thousand dollars except under the provisions provided by this act.

§ 428. The department of public health of the city of Oswego created by its common council pursuant to the provisions of chapter two hundred and forty-nine of the laws of nineteen hundred and twenty-one is hereby abolished.

Annual
estimate of
amounts to
be raised.

Department
of public
health
abolished.

§ 429. The following offices or positions in the city of Oswego created by its common council pursuant to the provisions of chapter two hundred and forty-nine of the laws of nineteen hundred and twenty-one are hereby abolished: Health officer, health inspector, clerk of the department of health, fire marshal, meat, milk and market inspector, physician to be in charge of the health center, physician to be in charge of the venereal clinic, public health nurse.

Certain
offices
abolished.

§ 430. The duties now performed by the health officer, the physician in charge of the health center, the physician in charge of the venereal clinic and the public health nurse shall be performed by the health officer to be appointed by the commissioner of public safety in pursuance of this act and such other physician or physicians, nurse or nurses or inspectors or subordinates to be appointed by said commissioner of public safety in pursuance of the provisions of this act as he shall from time to time designate.

Devolution
of duties.

§ 431. The duties now performed by the health inspector, clerk of the department of health and meat, milk and market inspector shall be performed by such member or members, inspector or inspectors or subordinate or subordinates of the department of fire and police or department of public safety or board of health, to be appointed by said commissioner of public safety in pursuance of the provisions of this act, as he shall from time to time designate.

The same.

§ 432. The office of fire marshal heretofore created and existing by virtue of chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five as amended is hereby abolished.

Fire
marshal
abolished.

§ 433. The duties of the fire marshal prescribed by such chapter, or by law, shall be performed by such member or members, inspector or inspectors or subordinate or subordinates of the department of fire and police or department of public safety or board of health as the commissioner of public safety shall from time to time designate.

Devolution
of duties.

§ 17. The position or office of inspector of accidents in the city of Oswego is hereby abolished.

Inspector of
accidents
abolished.

§ 18. This act shall take effect on the tenth day after it shall have become a law, except that a commissioner of public safety may be theretofore appointed to take office on that day.

In effect
when.

CHAPTER 597

AN ACT to amend chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled "An act to revise the charter of the city of Oswego," in relation to assessments and to creating the department of assessment, and to abolish the existing department of assessment and taxation and the offices and positions in connection therewith.

Not accepted by the City.

Passed without the acceptance of the City.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1896,
ch. 384,
tit. 10
amended.

Section 1. Title ten of chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, entitled "An act to revise the charter of the city of Oswego," as amended by chapter two hundred and sixty-three of the laws of eighteen hundred and ninety-seven and chapter three hundred and fourteen of the laws of nineteen hundred and seven, is hereby re-enacted and amended to read as follows:¹

TITLE X.

DEPARTMENT OF ASSESSMENTS.

Depart-
ment.

§ 230. The department of assessments shall be composed of all officers making general and local assessments.

§ 231. **The assessors.** The assessors of said city shall be three in number, and² shall compose a board to be called the "board of assessors," which shall make all general assessments, all of whom shall be appointed by the mayor, and one of whom shall be appointed, designated and known as the chief assessor and shall act as chairman of said board, and of the other two associate assessors³ one shall be known as the assessor of the first, third, fifth and seventh wards, and shall be a resident of one of said wards, and the other shall be known as the assessor of the second, fourth, sixth and eighth wards, and shall be a resident of one of said wards.

Assessors;
appoint-
ment,
terms.

§ 232.⁴ The mayor immediately shall appoint three assessors. The term of office of the one who shall be appointed, designated and known as the chief assessor shall expire on December thirty-first, nineteen hundred and twenty-four. The term of office of one associate assessor shall expire December thirty-first, nineteen hundred and twenty-three. The term of office of one associate assessor shall expire December thirty-first, nineteen hundred and twenty-two. The mayor in appointing the associate assessors shall designate for which term each is appointed. Thereafter the term of office of each assessor shall be three years. Upon the expiration

¹ Unless indicated sections are not amended.

² Word "and" substituted for word "who."

³ Words "associate assessors" new.

⁴ Section 232 materially amended.

of the term of any assessor thereafter, a successor shall be appointed by the mayor, for such term that the term of one assessor shall end on December thirty-first, in each year.

§ 233. Any assessor may be removed from office by the mayor for cause, after opportunity shall have been given him to be heard, and vacancies in the office of assessor shall be filled by appointment by the mayor for the remainder of the unexpired term. Removal.

§ 234.⁵ The assessors shall possess all the powers and authority and be subject to all the obligations of town assessors, and shall make the assessment-rolls of said city in the same manner as such town assessors except as herein provided, ⁶ and shall complete any pending matter in the abolished department of assessment and taxation, established by the common council pursuant to chapter three hundred of the laws of nineteen hundred and twenty-one, which would be within their jurisdiction if begun after the reenactment of this title. Between the first days of April and June of each year, they shall proceed to ascertain by diligent inquiry the names of all the taxable inhabitants in the city, and also of all the taxable property, real and personal, within the same. They shall prepare two general assessment-rolls of said city, one of all the taxable property in the first, third, fifth and seventh wards, and one of all the taxable property in the second, fourth, sixth and eighth wards, in which they shall set down, in separate columns and according to the best information in their power, the names of all the taxable inhabitants in said wards, the number of the block and lot and the number of the great lot, if any, on which the land described is situated, or the assessor's subdivision thereof; a brief description of the land to be taxed to each person, giving the quantity thereof, where the land is farming land, and also, in addition to said description, when practicable, the street and the street number of any building thereon; but if the land be vacant or the building thereon not numbered, then the name of the street on which it fronts shall be given; the full value of such land according to the definition of the term land as given by law, and the full value of all the taxable personal property owned by such person after deducting the just debts owing by him. Where the description of land by the block and lot can not be given they may describe the same in the said assessment-rolls by assessor's subdivisions, and said assessors are hereby authorized to describe any lot or parcel of land by the assessor's subdivisions, providing a map thereof has been made by the city engineer under the direction of the common council and filed with the board of assessors. The assessors shall complete said assessment-rolls on or before the fifteenth day of June in each year and shall make an original, and copy thereof to be left at their office. They shall forthwith cause notices to be published in the official papers of said city, daily, for two weeks, setting forth that the assessors have completed their assessment-rolls, and a copy thereof is left at their office in the city hall where the same may be seen and Assessment-rolls.

Description of lands.

Completion of assessment-rolls.

⁵ As amended by L. 1897, ch. 263.

⁶ Remainder of sentence new

examined by any person interested after the fifteenth day of June and until the first secular day of July, and that on the latter named day the assessors will meet at their office in the city hall to review their assessments.

Verification
of rolls.

§ 235. After the said assessors have reviewed their assessments, they shall foot the assessment-rolls and the said assessors, or a majority of them, shall severally appear before any officer authorized by law to administer oaths, and shall severally make and subscribe before such officer the oath in the form prescribed by law in such cases, which oaths shall be written or printed on such rolls, signed by the assessors and certified by the officer. The assessment-rolls so verified, with all other papers required by law to be filed, shall be delivered to the clerk of said city on or before the tenth day of July in each year.

Delivery to
city clerk.

Notice of
completion
and de-
livery.

§ 236. When the assessment-rolls are so finally completed and verified by the assessors, and so delivered to the city clerk, the assessors shall forthwith give public notice by posting the same in at least three public places in said city, and by publishing the same at least three successive days in the official papers, that such assessment-rolls have been finally completed and delivered to the city clerk, and that the same will be open to public inspection at the city clerk's office for fifteen days.

Extension
of tax.

§ 237. The city clerk shall, without delay, compute the ratio and extend the tax upon the assessment-rolls, and the common council shall, on or before the thirty-first day of July in each year, confirm said assessment-rolls, and the same shall be delivered by the city clerk, with the warrant thereto attached, as provided by this act, to the city chamberlain on or before the first day of August in each year.

Confirma-
tion and
delivery to
chamber-
lain.

Assessors;
salaries.

§ 238.⁷ The chief assessor shall have a salary of fifteen hundred dollars⁸ per annum, payable monthly, and the other members of said board shall each have a salary of four hundred dollars per annum, payable August first in each year.

Chief as-
sessor;
office,
hours.

§ 239. The chief assessor shall keep his office in the city hall (which shall also be the office of the department of assessments) and the same shall be kept open from ten to twelve o'clock in the morning and from two to four o'clock in the afternoon on all business days, except when said chief assessor shall be engaged in the examination and valuation of the real property of the city.

Delivery
of copies of
roll to
supervisors.

§ 240. The chief assessor shall make two copies of the assessment-rolls so made as aforesaid, and certify the same to be correct, and deliver the same to one of the supervisors of the city on or before the first day of November in each year, which shall be presented and delivered by said supervisor to the board of supervisors of Oswego county as and for the town rolls of said city, and no other such rolls shall be made. The chief assessor shall prepare all assessment-rolls required for the use of the board of assessors, and a copy thereof, and shall deliver the said rolls and copies to the city clerk as required by this act.

Duties of
chief as-
sessor.

⁷ As amended by L. 1919, ch. 317.

⁸ Formerly "twelve hundred dollars."

§ 241. All descriptions of real estate contained in said assessment-rolls shall be carefully examined by him, and all mistakes therein corrected. He shall, as often as once in each week, procure from the county clerk's office memoranda of all conveyances recorded or left for record therein, and affecting land situated in said city, of the parties thereto and of the lands affected thereby, and shall enter the same in a book to be kept by him for that purpose in his office, and which shall be open at all suitable times to public inspection.

Descriptions of real estate.

§ 242. He shall give notice by mail, postage prepaid, to each person, company or corporation whose name appears on a local assessment-roll, of the fact of such assessment, the amount thereof, together with the time and place of reviewing the same and hearing the parties who are interested in relation thereto.

Notice of local assessments.

§ 243. The chief assessor shall promptly post on the bulletin board in the rotunda of the city hall a copy of each and every public notice pertaining to any local assessment, and shall at all times keep in his office a scrap book, in which shall be affixed or pasted copies of every public notice which the department of assessments, or any member thereof is by law required to give or publish, and shall keep the same at all times properly indexed.

Posting of same.

Preservation of copies.

§ 244. Whenever the mayor shall be of the opinion, on written representations made to him, that any assessor is personally interested in any local assessment or improvement, by this act authorized, whereby said assessor may be assessed or taxed fifty dollars or more, and he shall so determine, he shall thereupon appoint a disinterested freeholder of the city to be an assessor in the place of any assessor so disqualified, for the purpose of making said assessment, as a member of the "board of local assessors." The city clerk shall thereupon notify the assessor so chosen of his appointment. Every person so appointed assessor shall, within five days after written notice of his appointment, take and subscribe the constitutional oath of office. Every person so appointed and qualified shall possess all the power and authority of an assessor under this act in respect to said assessment, and shall receive such compensation therefor as the common council shall fix.

Temporary assessor when assessor disqualified.

§ 245. Any assessor shall forfeit to the city one hundred dollars for any and every neglect or violation of his official duty. If any assessor shall refuse and neglect to perform his duty as such, the mayor may declare his office vacant, and appoint a qualified person to fill the vacancy for the unexpired term.

Neglect or violation of duty.

§ 246. The common council may from time to time direct the city engineer to prepare and furnish to the department of assessments for its use maps, surveys and other data of any real estate in the city, or to prepare a roll or rolls of any real estate in the city, for the use of the assessors exclusive of the valuation. The common council may also take such measures as they shall deem expedient to make the department of assessments the repository of such maps, surveys and other data as may facilitate a full and

Maps, surveys, etc.

accurate description of the real estate in the city and direct the manner of keeping them.

Correction
of assess-
ment-rolls.

§ 247. The common council are vested with power to correct the assessment-rolls in the same manner as a board of supervisors may by law correct the town rolls of their county. The city clerk or city engineer under the direction of the council, shall correct all clerical errors in the description or valuation of property on said rolls and erroneous descriptions of real estate therein.

LOCAL ASSESSMENTS.

Board of
local as-
sessors.

§ 248. The chief assessor, the city engineer and the city clerk shall compose a board to be called "the board of local assessors," which board shall make all local assessments and perform all the duties required by this act to be performed in regard to the making of local assessments and without extra compensation therefor. The chief assessor shall be chairman of the board of local assessors, and shall prepare all rolls and copies of rolls of said local assessments.

Board to
make as-
sessments.

§ 249. All local assessments of the expense, or any portion thereof, of any of the improvements authorized by this act to be made, shall be made by the board of local assessors, or a majority thereof. * Such board shall complete any pending matter in the abolished department of assessment and taxation, established by the common council pursuant to chapter three hundred of the laws of nineteen hundred and twenty-one, which would be within their jurisdiction if begun after the re-enactment of this title.

Meetings.

Assessment-
roll.

§ 250. The said board of local assessors shall meet at the office of the board of assessors as soon as practicable after any local assessment is ordered, and may, if necessary, adjourn from time to time. They shall make an assessment-roll of said local assessment in which they shall set down, in separate columns and according to the best information obtainable by them, the names of all the owners or occupants of the lands assessed, the number of the block and lot and the number of the great lot, if any, on which the land described and to be assessed is situated, or the assessor's subdivision thereof; a brief description of the land to be taxed to each person, giving the quantity thereof, where the land is farming land, and, when practicable, also the street and street number of any building thereon; but if the land be vacant or the building thereon not numbered, then the name of the street or streets on which it fronts shall be given, and the amount of the expense of such local improvements assessed on each piece of property apportioned as equitably as may be. When such roll is finished they shall publish a notice in the official papers for five days of a time when they will meet, at the expiration of said five days, to review such assessment, and shall designate the assessor's office as the place where such review will be made and where said roll may be seen and examined by any person interested therein. They shall have the same power to make correc-

Notice of
completion
and review.

Correction.

* Following sentence new.

tions in such assessment-roll as the board of assessors have in case of the assessment of the general tax. After such review of said assessment-roll they shall complete the same, and shall deliver a correct copy of the roll, duly certified, signed by all, or a majority of said board, to the clerk of the city within twenty days after their first meeting.

Completion
and deliv-
ery to city
clerk.

§ 251. Any person interested may appeal to the common council for the correction of such assessment. Such appeal shall be in writing, stating in detail the grounds for such appeal, and shall be delivered to the clerk of the city within ten days after the corrected copy of the assessment-roll is delivered to the city clerk. If there be no appeal, the assessment-roll shall be confirmed by the common council. In case of an appeal the common council shall appoint a time within ten days thereafter for a hearing of such appeal, and shall cause a notice thereof to be published in the official papers for three successive times prior to the date of such hearing. After such hearing the common council shall have power to correct such assessment or to annul the same, and direct a new assessment to be made in the manner hereinbefore directed, which shall be final and conclusive on all parties interested, in case the common council confirm the same. If the common council shall set aside the last aforesaid assessment, all the proceedings in the matter shall be null and void. The second assessment shall be made, and an appeal thereon may be taken in the same manner as on the first assessment. If no appeal be taken from any such assessment, it shall be confirmed.

Appeals.

Hearing.

Correction
and con-
firmation of
rolls.

§ 252. As soon as the common council has confirmed an assessment-roll for any local assessment, it shall cause a warrant to be annexed under the hand and seal of the mayor, commanding the city chamberlain to collect from the several persons named or property described in said assessment-roll the several sums levied in said roll, and the said roll with the warrant so annexed shall be delivered to the city chamberlain. The city chamberlain shall thereupon proceed to collect the several sums levied and assessed in the said local assessment-roll in the same manner as in the case of the general city assessment-rolls, and all the provisions of this act relative to the collecting of the general city assessment and the sale of lands for the nonpayment of such assessments shall apply to any such local assessment-roll, except so far as the same are modified by the provisions of this act.

Delivery
of roll
with war-
rant of
collection.

Collection.

§ 253. The city chamberlain at the time that the common council confirms any local assessment and places the same in his hands for collection shall give the department of works credit for the full amount of such local assessment by transfer of the said amount from the contingent fund. All sums collected from local assessments shall be placed to the credit of the contingent fund.

Credit for
amount of
assessment.

§ 254.¹⁰ The grades of the several streets within said city determined by the department of works are hereby declared to be the established grades of said several streets respectively. Whenever

Street
grades es-
tablished.

¹⁰ As amended by L. 1897, ch. 263.

**Alteration:
damages.** the established grade of any street, lane, alley or other highway shall be altered by the department of works under the provisions of this act, the owner of any lot or house upon such street, lane, alley or other highway may claim damages therefor and present his claim to the common council and the common council shall thereupon direct the board of local assessors to ascertain all such damages and assess the same as herein provided upon the real estate benefited by said alteration. Within two years after the passage of this act the department of works shall fix and establish the grade line of all streets, sidewalks, public places and squares in the city, by and with the assistance of the city engineer, who shall then prepare a map of the city with necessary profiles, showing boundaries, alignment and grades of all streets, and grade line of all sidewalks, the boundaries and grade of all public places and squares, and the location of the sewers and water pipes, and the underground wires, if any, and the said city engineer shall thereafter change and add to such map so as to make it conform to any alteration in said boundaries, grades and alignments made by the department of works, and shall show all extensions of sewers, water pipes or underground wires that may be made. The city engineer shall make, establish and place permanent monuments where he shall deem necessary to preserve and to make definite and certain all such surveys so made. Such map, together with any and all maps, surveys or profiles which may be made by the city engineer in the performance of his duty as such officer, shall belong to the city of Oswego, and shall be and remain in the office of the said engineer at all times.

**Assessment
of damages
over bene-
fits.** § 255.¹¹ Whenever the board of local assessors shall be of the opinion that any owner or owners of land situated on any street, alley, lane or highway to be graded or levelled will sustain damages over and above the benefit which may accrue to said owner or owners of such land by such improvements, they may assess such an amount as they may deem a reasonable recompense to such owner or owners thereof, upon the real estate benefited by such improvement, in proportion to the benefits resulting thereto, as nearly as may be; and the said assessors may add said amount to the assessment-roll which they are hereby required to make, and certify the said amount to the common council at the time of delivering their roll to the city clerk as aforesaid.

**Assessment
for de-
ficiencies.** § 256. In case any assessment shall prove insufficient to defray the expenses of the improvement for which it was made, the common council may direct the board of local assessors to make a further assessment for the amount of the deficiency; such further assessment shall be founded on the first roll, and the like proceedings shall be had thereon as though it were an original assessment. If, on any assessment, too large an amount shall be raised, the excess shall be refunded ratably to those from whom it was collected.

Refunds. § 257. Any and all property within the city of Oswego, exempt by the laws of the state from city, county and state tax shall nev-

**Exempt
property
liable.**

¹¹ As amended by L. 1917, ch. 599.

ertheless be liable to be taxed for local improvements in like manner and to the same extent as all other property within said city.

§ 258.¹² Neither the department of works nor the common council shall order any local improvement when the cost thereof, as determined by the department of works and the city engineer, shall exceed fifteen thousand dollars, unless a majority of the owners of the property liable to assessment therefor, or the owners of one-half in value of the property affected thereby, shall petition in writing to the said department of works or the common council for such local improvement or consent thereto in writing. This section shall not apply to any local improvement ordered by the department of works or the common council, any portion of the expense of which is to be defrayed from moneys raised or to be raised by virtue of a special election, according to the provisions of this act.

Consent of
property
owners.

§ 2. The "department of assessment and taxation" in the city of Oswego created by its common council in pursuance of chapter three hundred of the laws of nineteen hundred and twenty-one is hereby abolished. The board of assessors appointed under the provisions of title ten of chapter three hundred and ninety-four of the laws of eighteen hundred and ninety-five, as such title is re-enacted and amended by this act, and their successors shall have the custody of the books, records, papers and property of such abolished department of assessment and taxation.

Department
of assess-
ment and
taxation
abolished.

§ 3. The office or position of commissioner of assessment and taxation and the office or position of deputy commissioner of assessment and taxation in the city of Oswego created by its common council in pursuance of chapter three hundred of the laws of nineteen hundred and twenty-one are hereby abolished.

Certain
offices
abolished.

§ 4. This act shall take effect on the tenth day after it shall have become a law, except that assessors may be theretofore appointed to take office on that day.

In effect
when.

CHAPTER 598

AN ACT to amend the public lands law, in relation to sale and conveyance by the state of certain easements in abandoned canal lands.¹

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," is hereby amended by inserting therein, after section fifty-five, a new section, to be section fifty-five-a, to read as follows:

§ 55a.
added to
L. 1909,
ch. 50.

¹² As amended by L. 1897, ch. 263; L. 1907, ch. 314.

¹ See constitution, art. 7, § 8, as amended 1921.

§ 55-a. **Conveyance of easements in abandoned canal lands.** The commissioners of the land office may at any time prior to the sale or conveyance of the right, title and interest of the state in and to abandoned existing Erie canal lands between Rome and Mohawk, sell and convey the right and easement to construct and permanently maintain conduits, pipe lines, cables or other similar structures underneath said canal lands, provided the use of such lands for other purposes will not be unreasonably affected thereby; and in case of the granting by said commissioners of the land office of lands upon which easements for the construction and maintenance of underground structures have been granted such lands shall be sold and conveyed subject to such easements. In the granting of easements, the commissioners of the land office may impose such conditions and restrictions as in their judgment will best conserve the value of the land for other use.

§ 2. This act shall take effect immediately.

CHAPTER 599

AN ACT to amend the personal property law, in relation to the investment of trust funds.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-one of chapter forty-five of the laws of nineteen hundred and nine, entitled "An act relating to personal property, constituting chapter forty-one of the consolidated laws," as amended by chapter five hundred and forty-four of the laws of nineteen hundred and eighteen, is amended to read as follows:

§ 21. **Investment of trust funds.** A trustee or other person holding trust funds for investment may invest the same in the same kind of securities as those in which savings banks of this state are by law authorized to invest the money deposited therein, and the income derived therefrom, and in bonds and mortgages on unincumbered real property in this state worth fifty per centum more than the amount loaned thereon, and in shares or parts of such bonds and mortgages, provided that any share or part of such bond and mortgage so held shall not be subordinate to any other shares thereof and shall not be subject to any prior interest therein, and provided further that bonds and mortgages in parts of which any trustee may invest trust funds together with any guaranties of payment, insurance policies and other instruments and evidences of title relating thereto shall be held for the benefit of such trustee and of any other persons interested in such bonds and mortgages by a trust company or title guaranty corporation organized under the laws of this state and that a certificate setting forth that such corporation holds

L. 1909,
ch. 46,
§ 21, as
amended by
L. 1918,
ch. 544,
amended.

such instruments for the benefit of such trustee and of any other persons who may be interested in such bonds and mortgages among whom the corporation holding such instruments may be included, be executed by such trust company or title insurance corporation and delivered to each person who becomes interested in such bond and mortgage. Every corporation issuing any such certificate shall keep a record in proper books of account of all certificates issued pursuant to the foregoing provisions. A trustee or other person holding trust funds may require such personal bonds or guaranties of payment to accompany investments as may seem prudent, and all premiums paid on such guaranties may be charged to or paid out of income, providing that such charge of payment be not more than at the rate of one-half of one per centum per annum on the par value of such investments. But no trustee shall purchase securities hereunder from himself.

¹ Whenever any trust funds are invested in the shares of a savings and loan association, organized under the laws of this state, at the time said funds shall come into the possession of any trustee or other person, entitled to hold the same, the investment of such funds in the shares of such savings and loan association may be continued, provided, however, the total amount of trust funds invested in the shares of such savings and loan association shall not exceed the amount of its guaranty fund.

§ 2. This act shall take effect immediately.

CHAPTER 600

AN ACT to amend the railroad law, in relation to construction of road and use of existing tracks in street where other road is built.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and eighty-three of chapter four hundred and eighty-one of the laws of nineteen hundred and ten, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws," is hereby amended to read as follows:

L. 1910,
ch. 481,
§ 183
amended.

§ 183. **Construction of road in street where other road is built.** No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is or shall be lawfully constructed, except for necessary crossings, or, in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants over any bridges, without first obtaining the consent of the corporation owning and maintaining the same, except that any street surface railroad com-

¹ Remainder of section new.

pany may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and if in a city having a population of less than thirty-five thousand inhabitants, for a distance not exceeding fifteen hundred feet, and in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants, shall have the right to lay its tracks upon, and run over and use any bridges used wholly or in part as a footbridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed or operated as an independent railroad, or to connect said railroad with a ferry, or with another existing railroad, and that the public convenience requires the same, in which event the right to use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the public service commission in cases where the corporations interested shall unite in a request for such commission to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another shall consider and allow for the use of the tracks for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of the stockholders voting at a special meeting called for that purpose by notice in writing, signed by a majority of the directors of such corporation, stating the time, place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is fully or partly in the same city or town or adjacent cities or towns. ¹Notwithstanding any of the provisions contained in this section, any street surface railroad corporation having a franchise to construct, maintain and operate in any city by underground electric power over any one street or avenue for a distance of more than three miles thereon, and operating under such franchise by underground electric power on such street or avenue over tracks which extend more than four thousand feet on each end of the tracks of another street surface railroad corporation located on such street or avenue and operated by underground electric power, may use the tracks of such other street surface railroad corporation located on such street or avenue for a distance not exceeding two thousand five hundred feet, and shall pay therefor such compensation as may be agreed upon between such street railroad corporations, or if such street railroad corporations cannot so agree, such compensation shall be ascertained and determined by commissioners to be appointed by the courts as provided in the condemnation law.

§ 2. This act shall take effect immediately.

¹ Remainder of section new.

CHAPTER 601

AN ACT to amend the railroad law, in relation to inspection of boilers and other locomotive equipment.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-two of chapter four hundred and eighty-one of the laws of nineteen hundred and ten, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws," is hereby amended to read as follows:¹

L. 1910,
ch. 481,
§ 72
amended.

§ 72. **Inspection of locomotives.** It shall be the duty of every railroad corporation which operates a railroad not exceeding fifty miles in length by steam power, within this state, and of any other corporation (except a railroad corporation), partnership or person owning or operating a locomotive or locomotives propelled by steam, which may at any time pass over or on the tracks of any railroad corporation within the state or over or on any track parallel to and immediately adjacent to any track of any railroad corporation within the state, and of the directors, managers or superintendents of such corporations, to cause thorough inspections to be made of the boilers, safety appliances, machinery, and all appurtenances thereto of all the steam locomotives which may be owned or operated by such corporations, partnerships or persons within this state. Such inspections shall be made at least every three months under the direction and superintendence of said corporations, partnerships or persons, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers and other locomotive equipment, and who from their knowledge of the construction and use of boilers and other locomotive equipment and the appurtenances therewith connected, are able to form a reliable opinion of the strength, form, workmanship and suitability of boilers and other locomotive equipment, to be employed without hazard of life, from imperfections in material, workmanship or arrangement of any part of such locomotive and appurtenances. All boilers used on such locomotives shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, water glasses, gauge cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of said corporations, partnerships or persons without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith, shall be

¹ Section materially amended.

approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler and other locomotive equipment and the appurtenances thereto throughout, shall make and subscribe his or their name to a certificate which shall contain the number of each locomotive and boiler inspected, the date of inspection, the condition of the boiler and other locomotive equipment inspected, and such other details as may be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such corporation, partnership or person having charge of the operation of such locomotive; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with such locomotive, and there kept framed under glass. The public service commission shall have the power, from time to time, to formulate rules and regulations for the inspection and testing of locomotives as aforesaid, and may require the removal of incompetent inspectors of locomotives under the provisions of this section. If it shall be ascertained by such inspection and test or otherwise, that any locomotive is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every such corporation, director, manager or superintendent, partnership or person violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam locomotive, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. The public service commission shall enforce the provisions of this section as to penalties.

§ 73, as amended by L. 1920, ch. 867, amended.

§ 2. Section seventy-three of such chapter, as last amended by chapter eight hundred and sixty-seven of the laws of nineteen hundred and twenty, is hereby amended to read as follows:¹

§ 73. **Inspectors of locomotives.** Inspectors shall be appointed by the public service commission, who shall be familiar with the construction and operation of steam locomotives and their appurtenances, whose salaries shall be fixed by the commission. They shall, under the direction of the commission, inspect locomotives used by corporations operating steam railroads within the state, or locomotives owned or operated by corporations, partnerships or persons on or over any track adjacent to or parallel with any track of any railroad corporation within the state, and

¹ Section materially amended.

may cause the same to be tested by hydrostatic tests and shall perform such other duties in connection with the inspection and test of locomotives as the commission shall direct. But this section shall not relieve any corporation, partnership or person from the duties imposed by the preceding section.

§ 3. This act shall take effect immediately.

CHAPTER 602

AN ACT to amend the tax law, in relation to sales for nonpayment of taxes in Essex, Fulton and Hamilton counties.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred, one hundred and fifty and one hundred and fifty-one of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as last amended by chapter one hundred and fifty-nine of the laws of nineteen hundred and eighteen,¹ are hereby amended to read as follows:

L. 1909,
ch. 62,
§§ 100, 150,
151, as
amended by
L. 1918,
ch. 159,
amended.

§ 100. **Return of unpaid nonresident taxes.** The collector shall return the original assessment-roll to the county treasurer, and when the treasurer finds an account of unpaid taxes on real property or unpaid taxes on corporations, received from a collector to be a true transcript of such original assessment-roll to which the collector's warrant is attached with the descriptions furnished by the supervisor as provided in section eighty-nine, he shall add to it a certificate that he has examined and compared the account with such roll and found it to be correct, and after crediting the collector with the amount thereof, he shall, except in Saint Lawrence, Essex,² Franklin, Fulton, Hamilton,³ Lewis, Clinton, Warren, Washington and Oneida counties, in case his county embraces a portion of the forest preserve, before the first day of May next ensuing, transmit such account, affidavit and certificate to the comptroller who may, before acting thereon, return any such account to the county treasurer for correction, who shall make such correction and return to the comptroller in one month thereafter or as the comptroller may otherwise direct.

§ 150. **When lands to be sold for unpaid taxes.** Whenever any tax charged on real estate, in the counties of Saint Lawrence, Essex,² Franklin, Fulton, Hamilton,³ Lewis, Clinton, Warren, Washington and Oneida, or in a county not including a portion of the forest preserve, is returned to the county treasurer, he shall not return the same to the comptroller, but if such tax, with interest

¹ Previously amended by L. 1913, chs. 377, 642; L. 1915, ch. 328. Section 150 also previously amended by L. 1914, ch. 417.

² Word "Essex" new.

³ Words "Fulton, Hamilton" new.

thereon at the rate of ten per centum per annum, computed from the first day of February, after the same is levied, shall remain unpaid for six months from that date, such county treasurer shall advertise and sell such real estate as herein provided for the payment of such tax and interest and the expenses of such sale. The expense of publication of the notice of sale and the list of lands to be sold and the expense of conducting the sale, and the expense of publication of the notice of unredeemed lands, if thereafter redeemed, shall be a charge on the land liable to be sold and shall be added to the tax and interest. The county treasurers of the counties of Rockland and Suffolk may defer the sale of any parcel of nonresident real estate in their respective counties for unpaid taxes, until the unpaid taxes thereon with accrued interest shall amount in the aggregate to the sum of two dollars. The county treasurer of Suffolk county on the order of the board of supervisors of said county may defer for not exceeding two years from the date of the levy of the tax, the sale for unpaid taxes of such properties subject thereto as such board may specify, and the unpaid taxes on such parcels shall meantime be charged with interest at the rate of ten per centum per annum.

§ 151. **Advertisement and sale.** The county treasurer shall immediately after the expiration of such six months cause to be published at least once in each week for six weeks, in two newspapers designated for the publication of the session laws, a list of real estate so liable to be sold, together with a notice that such real estate will, on a day at the expiration of said six weeks specified in such notice, and the succeeding days, be sold at public auction at the court house in the county where the same is situated, to discharge the taxes, interest and expenses that may be due thereon, at the time of such sale. Such list shall contain the name of the owner or occupant of each piece of real estate to be sold, as the same appears upon the assessment-roll of the year in which unpaid taxes were assessed, a brief description of such real estate, and the total amount of such unpaid taxes for the year advertised, which said total amount shall include all taxes, interest, expenses and other charges against the property for the year advertised. The comptroller may prescribe the form and manner of preparing such list, which when so prescribed shall be followed so far as possible by the several counties of the state. No such list shall be published until the same shall have been submitted to and approved by the state comptroller. On the days mentioned in such notice the county treasurer shall begin the sale of said real estate and continue the same from day to day. The charges for publishing such notice shall be seventy-five cents per folio for the first insertion, and fifty cents per folio for each subsequent insertion. The counties of Essex,⁴ Saint Lawrence, Franklin, Fulton, Hamilton,⁵ Lewis, Clinton, Warren, Washington and Oneida, and the counties of the state other than those in the forest preserve are empowered to acquire and hold such lands.

⁴ Word "Essex" new.

⁵ Words "Fulton, Hamilton" new.

Within twenty days after the time for redemption has expired the county treasurer of each of the counties of Essex,⁴ Saint Lawrence, Franklin, Fulton, Hamilton,⁵ Lewis, Clinton, Warren, Washington and Oneida shall file with the comptroller a certified statement of all tracts or parcels of land situated in the forest preserve which have been bid in by the county and have not been redeemed, and shall sell and convey to the state any tract or parcel of land specified in such statement which the comptroller shall designate within six months after such statement is filed upon the payment of the taxes, interest and expenses due thereon at the time of the sale, and also all taxes assessed thereon since such sale, and the comptroller shall draw his warrant on the state treasurer for the amount thereof or credit the county with such amount on the books of his office. After the expiration of such six months, in the counties of Essex,⁶ Saint Lawrence, Franklin, Fulton, Hamilton,⁷ Lewis, Clinton, Warren, Washington and Oneida, and after the time for redemption has expired in any other county, the county treasurer is authorized in the name of the board of supervisors of the county to sell and convey under his hand and seal such lands as have not been conveyed to the state in the manner and upon such terms as the board of supervisors of the county may direct.

§ 2. This act shall take effect immediately.

CHAPTER 603

AN ACT to amend the tax law, in relation to taxation of bank shares.

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section twenty-four of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," as amended by chapter three hundred and twenty-three of the laws of nineteen hundred and sixteen, is hereby amended to read as follows: L. 1909,
ch. 62,
§ 24, as
amended by
L. 1916,
ch. 323,
amended.

§ 24. **Bank shares, how assessed.** ¹The value of each share of stock of each bank and banking association, except such as are in liquidation, shall be ascertained and fixed by adding together the amount of the capital stock, surplus and undivided profits of such bank or banking association and by dividing the result by the

⁴ Word "Essex" new.

⁷ Words "Fulton, Hamilton" new.

¹ Sentence omitted which read: "In assessing the shares of stock of banks or banking associations organized under the authority of this state or the United States, the assessment and taxation shall not be at a greater rate than is made or assessed upon other moneyed capital in the hands of individual citizens of this state."

number of outstanding shares of such bank or banking association. The value of each share of stock in each bank or banking association in liquidation shall be ascertained and fixed by dividing the actual assets of such bank or banking association by the number of outstanding shares of such bank or banking association. The owners of the stock of banks and banking associations shall be entitled to no deduction from the taxable value of their shares because of the personal indebtedness of such owners, or for any other reason whatsoever. This section is not to be construed as an exemption of the real estate of banks or banking associations from taxation. No shares of stock of such banks and banking associations, by whomsoever held, shall be exempt from the tax hereby imposed.

§ 3. This act shall take effect immediately.

CHAPTER 604

AN ACT to amend chapter five hundred and ninety-four of the laws of nineteen hundred and seven, entitled "An act to provide for preserving the waters of the Bronx river from pollution; creating a reservation of the lands on either side of the river; authorizing the taking of lands for that purpose and providing for the payment thereof; and appointing a commission to carry out the purposes of the act," in relation to the acquisition, use, policing and maintenance of said lands.¹

Became a law April 12, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1a added
to L. 1907,
ch. 584.

Section 1. Chapter five hundred and ninety-four of the laws of nineteen hundred and seven, entitled "An act to provide for preserving the waters of the Bronx river from pollution; creating a reservation of the lands on either side of the river; authorizing the taking of lands for that purpose and providing for the payment thereof, and appointing a commission to carry out the purposes of the act," is hereby amended by inserting therein a new section, to be "Section 1-a" thereof, to read as follows:

Additional
described
lands to
constitute
part of
parkway.

§ 1-a. And in addition to the lands specified in section one of this act, the following described lands, after and provided that their acquisition in whole or in part shall have been approved by the board of estimate and apportionment of the city of New York, are hereby declared to the extent thereof to which said approval, if given, shall apply, to constitute, when acquired and improved as hereinafter prescribed, a part of the public parkway for public use, as provided by this act, to wit:

Parcel number eighteen. All that certain parcel or tract of land situate, lying and being in the city of Yonkers and county of Westchester, New York, known and distinguished as lots numbers eleven to twenty-four, both inclusive, block ten, section one,

¹ The amendments effected by this act are so numerous and extensive that, it is impracticable to indicate the changes made.

together with those portions of Grant avenue and Chestnut street in front of or adjacent to said lots, all as shown on page five of a certain bound volume of maps entitled "Map of property of the Yonkers Park Association, division number one, in the fourth ward of the city of Yonkers, state of New York, surveyed and prepared by A. P. Hartmann, civil engineer and city surveyor, eighteen Liberty street, New York city, December seventeen, eighteen hundred and ninety," filed in the office of the register of the county of Westchester, June twenty-ninth, eighteen hundred and ninety-two, as "Bound volume of Yonkers Park," sections one, two and three.

Parcel number nineteen. All that certain parcel or tract of land situate, lying and being in the town of North Castle, county of Westchester, New York, and known and distinguished as that portion of Kensico Manor, more particularly bounded and described below, as shown on a certain map entitled "Map of Kensico Manor, Westchester county, New York," prepared by John F. Fairchild, civil engineer, dated September fifteenth, eighteen hundred and ninety-two, filed in the office of the register of the county of Westchester, March twenty-first, nineteen hundred and one, as map number twelve hundred and one; beginning at a point in or near the southwesterly corner of lot four, block eight, as shown on said map of Kensico Manor, at the point where said southerly line of said lot four, or an extension thereof, intersects the easterly right of way line of the New York and Harlem Railroad Company; thence from said point of beginning, in a northerly direction along lands now or formerly of the New York and Harlem Railroad Company to lands of the city of New York, acquired for water supply purposes; thence in a general easterly direction, along said lands of the city of New York, approximately seven hundred feet to the easterly line of a right of way marked "Pathway" on said map of Kensico Manor; thence in a southerly direction along the easterly line of said right of way marked "Pathway" on said map, to the northerly line of lot three, block eleven, as shown on said map; thence in an easterly direction along the northerly line of lot three, block eleven, to the easterly line of said lot three; thence in a southerly direction along the easterly line of lots numbers three, two and one of block eleven, and along the easterly line of Fairlone Park as shown on said map, to the southeasterly line of Fairlone Park, as shown on said map, and the northwesterly line of Hillandale avenue; thence in a southwesterly direction along the southeasterly line of Fairlone Park and the northwesterly line of Hillandale avenue to the southerly boundary of Kensico Manor, as shown on said map; thence in a westerly direction along the southerly boundary of Kensico Manor, and crossing Columbia avenue and Kensico avenue, as shown on said map, to said easterly right of way line of the New York and Harlem Railroad Company, at the point or place of beginning; and including, also, all streets, rights of way, parks or public places within the limits of the above described area.

§ 5
amended.

§ 2. Section five of said chapter five hundred and ninety-four of the laws of nineteen hundred and seven is hereby amended so as to read as follows:

Commissioners created body politic; powers.

§ 5. The commissioners and their successors are hereby created a body politic with power to sue and be sued, to use a common seal, to adopt by-laws, to regulate its own proceedings, to make suitable rules and regulations for the proper exercise of the powers and duties hereby conferred and imposed upon it and to amend the same, to adopt ordinances for the government and use of the public reservation under its care and to amend the same, and to enforce observance of all rules, regulations and ordinances made by it in pursuance of this act, and shall have the same rights and powers over and in regard to the lands described herein as and when acquired, as, in general, counties, cities and towns have over public lands within their respective jurisdictions, provided, however, that nothing in this act contained shall be taken, or held to affect or abridge the right of any city or other municipality to perform its lawful functions of government within its boundaries, or to pursue and apprehend as it lawfully may any person or persons who commit any breach of any statute, ordinance or regulation. Each ordinance, or any amendment thereto, for the government and use of said public reservation shall be adopted by said commission by resolution, shall be separately numbered and incorporated within and made a part of its minutes, and shall be known and designated as "Bronx River Parkway Ordinance"; and said commission shall cause each such ordinance from time to time made by it to be posted in said reservation and shall also cause the same to be published, at least three times, in a paper published and circulated in the borough of the Bronx, and in a paper published and circulated in the county of Westchester. Each ordinance if amended shall be so posted and published in its amended form, but need not be republished with the publication of another ordinance adopted at a later date, and the posting and publication herein prescribed, when made, shall be sufficient notice to all persons. A copy of any such ordinance, certified by any member of said commission, or by its secretary, whose signature shall be acknowledged before an officer authorized to take acknowledgements, to be a true copy of such ordinance and to have been so posted and published, shall be prima facie evidence of such ordinance and of its legal adoption. Any person violating any such ordinance shall be guilty of a misdemeanor. The city magistrates court of the city of New York shall have jurisdiction to try, convict and sentence all persons who violate, within that part of said reservation included within the city of New York, any of said ordinances or any of the provisions thereof; and any court of special sessions having jurisdiction within any subdivision of the county of Westchester containing territory included within such reservation shall have jurisdiction to try, convict and sentence all persons who violate, within that part of said reservation included within its jurisdiction, any of said ordinances or any of the provisions

Ordinances adopted by commission.

Violations of ordinances.

thereof; provided, however, that where such violation is committed within the county of Westchester on the boundary of two or more of said jurisdictions within said county, or within five hundred yards thereof, or is committed, partly in one such jurisdiction and partly in another within said county, or the acts or effects thereof, constituting or requisite to the consummation of the offense, occur in two or more such jurisdictions, the jurisdiction shall be in either of said jurisdictions comprising and being, respectively, jurisdictions of any such court of special session held by a justice of the peace, or in that of any court held in and for the county of Westchester, in which court persons accused of having committed a misdemeanor may be lawfully prosecuted by indictment; and, provided, also, that where any violation of any of said ordinances shall also constitute a violation of any statute or of any ordinance, rule or regulation of any city, town or village, the offender may be proceeded against under either the provisions of such statute, ordinance, rule or regulation, or under the ordinances adopted by said commission as aforesaid, but a conviction or acquittal under one shall bar a prosecution for the same act or omission under any of the other of such statutes, ordinances, rules and regulations; and provided, also, that the jurisdiction above given to said courts to try, convict and sentence offenders against the provisions of such ordinances adopted by said commission shall be subject to the right of removal, as provided by the code of criminal procedure, to a court having authority to inquire by the intervention of a grand jury into offenses committed within said county.

§ 3. Section six of said chapter five hundred and ninety-four of the laws of nineteen hundred and seven is hereby amended so as to read as follows: § 3 amended.

§ 6. Said commission shall annually choose from its members a president, vice-president and treasurer, and may appoint a secretary, who shall keep a record of its proceedings, which shall be a public record and be open to public inspection at such times and under such reasonable regulations as the commission shall determine. Said commission shall maintain a suitable office where its maps, plans, papers and records shall be kept, and for the purposes of this act, said commission may retain all necessary counsel and attorneys, and is empowered to employ, and at pleasure discharge, a secretary, engineer, landscape architect, and such other officers and employees as it may deem necessary; and may determine their duties and fix their compensation. Such employees shall include one or more persons who may be employed for the purpose of enforcing law, order and the observance of the ordinances established by said commission for the government and use of the public reservation under its care. Each person as and when so employed, and during the term of such employment, shall be designated as a "Bronx River Parkway Patrolman" and shall be a peace officer as defined by section one hundred and fifty-four of the code of criminal procedure, and shall have, within the limits of the cities, towns and villages containing territory included Commission; officers and employees; record of proceedings, office.

Bronx River Parkway Patrolmen.

Commission;
duties.

within such reservation all the powers of a constable, marshal, police constable, or policeman of a city, town or village in the execution of criminal process; and criminal process issued by any court or magistrate of a county, town, city or village containing territory included within such reservation may be directed to, and executed by any such patrolman, notwithstanding the provisions of any local or special act, ordinance, or regulation. Said commission shall have power to, and shall, so soon as may be after its organization, and from time to time, proceed to acquire, make available and maintain for use as a public park, the lands acquired, or which may be hereafter acquired under any of the provisions of this act; and for that purpose shall have power to take, in fee or otherwise, by purchase, covenant, devise or eminent domain, the said lands or any of them, and any rights, interests and easements therein; and may enter upon any and all the lands described in this act, or adjoining said lands, when necessary to carry out the purposes of this act, and may survey the same and take levels thereof, and by itself and its representatives and agents, do all things necessary to the preparation for the laying out of a public park from the northerly boundary line of Bronx Park, borough of the Bronx, to the Kensico reservoir in Westchester county.

§ 18
amended.

§ 4. Section eighteen of said chapter five hundred and ninety-four of the laws of nineteen hundred and seven is hereby amended so as to read as follows:

Provision
for salaries;
apportionment
between
Westchester
county and
New York
city.

§ 18. On or before the tenth day of September, following the approval of the board of estimate and apportionment provided for by section nineteen of this act, and annually thereafter, the commission created by this act shall certify to the board of supervisors of the county of Westchester, and to the board of estimate and apportionment of the city of New York, the amount necessary to pay the salaries of the commissioners and office employees of said commission, including its secretary and counsel, and the rent and other incidental expenses of said office, including expenses of maintenance and wages of employees engaged in said maintenance, for the ensuing year, and thereupon it shall become the duty of the board of supervisors of the county of Westchester to provide for one-fourth of said expenses, and of the board of estimate and apportionment of the city of New York to provide for raising three-fourths of said expenses, by including the amount thereof in the annual budget, and to that end the said board of supervisors of the county of Westchester and the board of taxes and assessments in the city of New York are hereby authorized and empowered to annually assess the proportionate cost of maintenance of the said commission, as so certified to them, upon the taxable real and personal property within their respective jurisdictions, and the amount so raised by the said board of supervisors of the county of Westchester shall be paid over, as soon as raised, to the comptroller of the city of New York, and be placed by him to the credit of said commission, together with the funds provided by the board of estimate and apportionment

of the city of New York, and the total fund shall be paid over by him to said commission upon its requisition.

§ 5. Section eighteen "A"² of said chapter five hundred and ninety-four of the laws of nineteen hundred and seven is hereby amended so as to read as follows: § 18A amended.

§ 18-A. In addition to the powers hereinbefore granted to it, the said commission shall have power to improve, maintain and use the lands of the city of New York and other municipalities adjoining the parkway between Bronx Park on the south and the new Kensico dam on the north, with the consent of the local authorities having jurisdiction thereof; also to accept by gift, covenant or devise lands adjoining the parkway reservation or adjoining public lands contiguous to such reservation, and to improve and maintain the same; also to improve and maintain lands in public streets, adjacent to or within the general lines of the parkway reservation; also to sell timber, wood, material, houses and buildings of every kind and nature standing upon or attached to lands acquired for reservation purposes. Upon petition by the common council of a city or town board of a town through which a brook or stream tributary to the Bronx river flows, such commission may acquire and take in fee or otherwise, by purchase, covenant, gift, devise or eminent domain, so much of such brook or stream and the lands thereunder and adjacent thereto or bordering thereon, and any rights, interests or easements therein within the city or town presenting the petition as may be deemed necessary by such commission to preserve the Bronx river from pollution. One-half of the expense of such acquisition shall be borne by the city or town presenting the petition. The other one-half of such expense, together with the entire cost of maintenance and improvement, shall be borne and paid in accordance with the foregoing provisions of this act. When such a petition shall have been presented and the estimated expense of acquisition shall have been determined by said commission, it shall certify to the proper officers of such city or town the portion of such expense to be borne thereby. Every city or town through which any such stream or brook flows is hereby authorized to pay one-half of the expense of such acquisition as may be made within its boundaries pursuant to this section, and is hereby authorized to issue and sell its bonds for the purpose of raising funds to meet its share of any such expenditure. If a city, such bonds shall be issued and sold in accordance with the provisions of law prescribing the method by which such city shall issue and sell its bonds, and such city shall cause to be raised annually by tax in the manner required by law, a sum sufficient to pay the interest and principal of such bonds, as the same shall become due. If a town, such bonds shall be issued and sold in the manner provided for the issue and sale of town bonds to pay a judgment against the town, and such town shall cause to be raised annually by tax in the manner required by law, a sum sufficient to pay the principal and interest of such bonds as the

Additional powers and duties of commission.

Acquisition of tributary streams.

Expense, how borne.

Municipal bond issues authorized.

² As added by L. 1913, ch. 757.

Disposition
of proceeds.

Lands, etc.,
acquired to
constitute
part of
reserve and
parkway.

same shall become due. City or town bonds issued pursuant to this section shall be payable at such times and in such installments as the common council or town board, as the case may be, shall determine. The proceeds from the sale of such bonds shall be paid to the Bronx Parkway Commission and applied to the purposes for which such bonds were issued. Any balance remaining in the hands of the commission after the payment from such proceeds of one-half of the cost of acquisition for which such bonds were issued shall be repaid by the commission to the proper municipal authorities to be applied in payment of the principal or interest of such bonds as the same shall become due. Any piece or parcel of land, and any right, interest, or easement in real estate acquired by the commission pursuant to this section shall constitute a part of the Bronx river reserve and parkway as established by this act, and be subject to all the provisions of this act in relation to the control, maintenance and improvement of such reserve and parkway.

§ 6. This act shall take effect immediately.

CHAPTER 605

AN ACT to confer jurisdiction on the court of claims to hear, try and determine the claim of Marion B. Baker, as administratrix de bonis non of the goods, chattels and credits of Charles N. Baker, junior, deceased, against the state for his death, alleged to have been caused on June tenth, nineteen hundred and nineteen, upon a highway maintained and patrolled by the state in the county of Albany.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Jurisdiction
conferred.

Notice of
intention
and claim.

Section 1. Jurisdiction is hereby conferred upon the court of claims to hear, try and determine the claim for damages of Marion B. Baker, as administratrix de bonis non of the goods, chattels and credits of Charles M.* Baker, junior, deceased, against the state of New York, for the alleged negligence of the state of New York, in causing the death of said decedent while he was lawfully proceeding home at night in an automobile by failing to maintain a proper bridge over the deep West Shore railroad cut just south of Albany and in not maintaining the highway approach thereto in a proper condition or protected by suitable barriers, guards or signs, and in permitting the highway to remain in a dangerous condition, the notice of intention to file said claim having been duly filed within the statutory six months by Charles N. Baker, father, and administrator of said deceased, but said administrator having himself thereafter died, and the said claimant not having been appointed administratrix de bonis non until June thirteenth, nineteen hundred and twenty-one, and said claim having been filed with said court of claims immediately on that day. Such jurisdiction shall attach without the refileing of such notice of inten-

* So in original. [Evidently should be "N."]

tion and claim and notwithstanding the failure of said claimant to file said claim within the time prescribed by law.

§ 2. Nothing herein contained shall be regarded as conceding the validity of such alleged claim, nor as waiving by implication, on behalf of the state, any defense thereto, the object of this act being merely to excuse and waive after filing notices of intention, the failure to file said claim within the period prescribed by law, the state hereby consenting to have its liability, if any, on such claim determined, and only if the court finds that such death was caused through the fault, negligence or carelessness of the state, its officers, or employees, and without contributory fault or negligence on the part of said deceased, shall damages therefor as may be awarded and adjudged by the court constitute a valid and legal claim against the state.

Validity of
claim not
conceded.

Liability
to be es-
tablished.

§ 3. This act shall take effect immediately.

CHAPTER 606

AN ACT to confer jurisdiction on the court of claims to hear, try and determine the claim of Marion B. Baker, as administratrix de bonis non of the goods, chattels and credits of Cornelius V. Baker, deceased, against the state for his death, alleged to have been caused on June tenth, nineteen hundred and nineteen, upon a highway maintained and patrolled by the state in the county of Albany.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Jurisdiction is hereby conferred upon the court of claims to hear, try and determine the claim for damages of Marion B. Baker, as administratrix de bonis non of the goods, chattels and credits of Cornelius V. Baker, deceased, against the state of New York, for the alleged negligence of the state of New York, in causing the death of said decedent while he was lawfully proceeding home at night in an automobile by failing to maintain a proper bridge over the deep West Shore railroad cut just south of Albany and in not maintaining the highway approach thereto in a proper condition or protected by suitable barriers, guards or signs, and in permitting the highway to remain in a dangerous condition, the notice of intention to file said claim having been duly filed within the statutory six months by Charles N. Baker, father and administrator of said deceased, but said administrator having himself thereafter died, and the said claimant not having been appointed administratrix de bonis non until June thirteenth, nineteen hundred and twenty-one, and said claim having been filed with said court of claims immediately on that day. Such jurisdiction shall attach without the refileing of such notice of intention and claim and notwithstanding the failure of said claimant to file said claim within the time prescribed by law.

Jurisdiction
conferred.

Notice of
intention
and claim.

Validity of
claim not
conceded.

Liability
to be es-
tablished.

§ 2. Nothing herein contained shall be regarded as conceding the validity of such alleged claim, nor as waiving by implication, on behalf of the state, any defense thereto, the object of this act being merely to excuse and waive, after filing notices of intention, the failure to file said claim within the period prescribed by law, the state hereby consenting to have its liability, if any, on such claim determined, and only if the court finds that such death was caused through the fault, negligence or carelessness of the state, its officers, or employees, and without contributory fault or negligence on the part of said deceased, shall damages therefor as may be awarded and adjudged by the court constitute a valid and legal claim against the state.

§ 3. This act shall take effect immediately.

CHAPTER 607

AN ACT to confer jurisdiction on the court of claims to hear, try and determine the claims of Addison D. Merry and Martha M. Buell as surviving partners of the firm composed of Menzo C. Murgittroyd, Josephine O'Brien, Addison D. Merry and Martha M. Buell; Herbert D. Wood; Smith N. Murgittroyd and Clinton D. Ash; and John J. Treacy and Henry J. Dorgelch as committee of bondholders of the Phoenix Fuel, Light and Water Company, against the state of New York.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Jurisdiction
conferred.

Section 1. Jurisdiction is hereby conferred upon the court of claims to hear, try and determine the claims of Addison D. Merry and Martha M. Buell as surviving partners of the firm composed of Menzo C. Murgittroyd, Josephine O'Brien, Addison D. Merry and Martha M. Buell, heretofore filed in said court and designated as claim number twelve hundred and fifteen-a; Herbert D. Wood heretofore filed and designated as claim number twelve hundred and sixteen-a; Smith N. Murgittroyd and Clinton D. Ash heretofore filed and designated as claim number thirteen hundred and forty-two-a; and John J. Treacy and Henry J. Dorgelch as committee of bondholders of the Phoenix Fuel, Light and Water Company, heretofore filed and designated as claims numbers ten hundred and twenty-nine-a and ten hundred and thirty-a, for damages resulting from the construction, use and management by the state of its canal system at or near the village of Phoenix in the county of Oswego and the hamlet of West Phoenix in the county of Onondaga, notice of intention to file said claims not having been seasonably given and said claims not having been filed within the period required by law, with the same force and effect as though such notice had been duly given, and such claims duly filed, such jurisdiction to attach without filing such notice of intention to file said claims and without refiling said claims, and such court of

claims may make awards and render judgments for the amounts justly and equitably found due and owing to said claimants.

§ 2. Nothing herein contained shall be construed as altering in any way the liability of the state with respect to said claims, except as provided in this act, the object of this act being merely to excuse and waive the failure to give seasonable notice of intention and to file such claims in due time as required by law.

Failure seasonably to file notice of intention and claims.

§ 3. This act shall take effect immediately.

CHAPTER 608

AN ACT to confer jurisdiction on the court of claims to hear, try and determine the alleged claim of Clara Senecal against the state for damages for personal injuries sustained by the alleged negligent operation of the state bridge spanning the Hudson river at Troy and Watervliet.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The court of claims is hereby authorized to hear, audit and determine the claim of Clara Senecal of the city of Cohoes, for damages for personal injuries sustained by the alleged negligence of employees of the state in the operation of the bridge known as the "Congress street bridge" which spans the Hudson river at Troy and Watervliet, and in the operation of its gates and draw, while the claimant was crossing such bridge in an automobile on or about the twentieth day of July, nineteen hundred and twenty; and if the court shall find that the claimant sustained personal injuries and that such injuries were caused by the negligence of state employees while acting in the course of their employment in the operation of such bridge, its gates and draw, or either, without contributory negligence on the part of the claimant, the state shall be deemed to have been liable for such negligence on the part of said employees and damages therefor shall constitute a legal and valid claim against the state, and the court shall award to and render judgment for the claimant against the state for such sum as it shall find to be just and equitable, provided the claim herein is filed with the court of claims within one year after this act takes effect.

Jurisdiction conferred.

§ 2. This act shall take effect immediately.

CHAPTER 609

AN ACT to confer jurisdiction upon the court of claims to hear, try, audit and determine the claim of the town of Verona, in the county of Oneida, for reimbursement of money paid by such town for culvert and sluiceway construction alleged to have been chargeable to the state.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Jurisdiction
conferred.

Section 1. Jurisdiction is hereby conferred upon the court of claims to hear, try, audit and determine the claim of the town of Verona, county of Oneida, against the state for money alleged to have been paid by such town for culvert and sluiceway construction and road repair in a certain case where it is alleged that the expense of such construction and repair was chargeable to the state and to make an award thereon and render judgment against the state in favor of the claimant for such a sum, as the court may determine to be justly due. The state hereby consents to have its liability on such claim determined. Nothing herein contained shall be held as admitting the validity of such claim or any part thereof upon the part of the state, nor as waiving any defense of the state thereto. Such jurisdiction shall attach without the refileing of such claim.

§ 2. This act shall take effect immediately.

CHAPTER 610

AN ACT to amend the farms and markets law, in relation to the licensing of stallions and breeding of horses, and to repeal section one hundred and sixty-one of the lien law.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1922,
ch. 48,
§§ 98-104
amended.

Section 1. Sections ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, one hundred and three and one hundred and four of chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," are hereby amended to read, respectively, as follows:

§ 98. Duties of commissioner. It shall be the duty of the commissioner to verify the breeding and pedigree of stallions, the certificates of conditions of soundness; and after due approval to

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

issue certificates of stallion enrollment, and to perform such other duties as may be necessary to carry out and enforce the provisions of this article.

§ 99. Certificate of enrollment; inspection; disqualifying diseases. To obtain a certificate of enrollment as herein provided, the owner of each stallion shall submit a certificate of the condition of soundness of such stallion signed by a veterinarian, approved by the commissioner. Such veterinarian shall make oath to said certificate before a notary public or any officer duly authorized to administer oaths, and this certificate of the condition of soundness, together with the original certificate of registry of pedigree of such stallion in cases of pure-bred stallions, or an acceptable substitute therefor, and a certified statement of the breeding in all other cases, together with such other papers relating to his breeding and ownership as may be required, shall be forwarded to the commissioner. Any incurable infectious or contagious disease with which the stallion may be afflicted shall disqualify said stallion from enrollment and for public service. Any transmissible unsoundness with which the stallion may be afflicted shall be named as such in said certificate of enrollment. The following diseases and unsoundness shall be defined as transmissible, for the purpose of this article: recurrent ophthalmia (moon blindness); cataract; amaurosis (glass eye); laryngeal hemiplegia (roaring or whistling); pulmonary emphysema (heaves, broken wind); string halt; bone spavin, side bone navicular disease; curb, when associated with curby conformation of the hocks. Enrollment certificates and certificates of soundness shall expire on the first day of January each year following date of issuance, except as otherwise provided herein. Certificates of enrollment must be renewed annually before the first day of April, excepting as hereinafter provided. A certificate of the condition of soundness shall not be required again if the stallion is ten years old or over; and at that time is sound and free from any and all incurable infectious and transmissible diseases, as defined by this article, and that it is so shown on the certificate of enrollment last issued.

§ 100. Use of stud book. The commissioner shall use for his standard for action in determining the purity or impurity of the breeding of stallions the stud books and signatures of the proper officers of the recognized foreign, American and Canadian horse register associations, societies or companies.

§ 101. Enrollment; how made. 1. Every stallion shall be enrolled in the name of the owner at the time of the enrollment, and in case of the change of ownership, the enrollment shall be deemed to be canceled, unless within thirty days thereafter satisfactory evidence of a change of ownership has been furnished the commissioner, in which case a transfer certificate shall be issued by the commissioner.

2. When a certificate of enrollment has been issued after the first day of November in any year, the enrollment and certificate of soundness and inspection of the stallion shall remain in force until the thirty-first day of December in the next succeeding year,

and when the enrollment has been made before the first day of November in any year the enrollment shall remain in force until the thirty-first day of December next following.

3. Enrollment of a stallion under the provisions of this article shall entitle the owner thereof to the lien provided for by section one hundred and sixty of the lien law, without any other filing or enrollment than that provided for in this article.

§ 102. **Issue of certificate of enrollment.** The commissioner upon approval of the papers supplied relating to the inspection, breeding and ownership of the stallion, and upon payment of the fee fixed by this article shall issue a certificate in accordance therewith, such certificate to be known as the certificate of enrollment.

§ 103. **Posting certificate of enrollment.** The owner of any stallion used for public service in the state shall post and keep affixed a correct copy of the certificate of enrollment of such stallion issued under the provisions of this article, in a conspicuous place within his home stable, or within any other stable or building where the stallion is used for public service. Every bill or poster issued by the owner of any stallion enrolled under this article, or used by him or his agent for advertising such stallion, shall contain a correct copy of the enrollment certificate printed in bold faced Roman type not smaller than long primer (ten point), and the first mention on said bill or poster of the name of the stallion shall be preceded by the words "pure bred," "grade," "standard bred," "non-standard bred," or "scrub," and the condition of soundness of said stallion indicated by the word "sound," or "unsound," in accordance with the wording of the enrollment certificate, the same shall be printed in type not smaller than the largest type in which the name of said stallion shall be printed on said bill or poster.

§ 104. **Fees for enrollment.** There shall be paid to the commissioner before the issuance of any certificate herein provided for, the following fees: For enrollment, three dollars; for renewal of enrollment, one dollar; and for transfer certificate, fifty cents. Such fees shall be paid in to the state treasury pursuant to the state finance law.

§§ 105a,
105b added.

§ 2. Such chapter is further amended by inserting therein, after section one hundred and five, two new sections, to be sections one hundred and five-a and one hundred and five-b, to read as follows:

§ 105-a. **Enrollment of scrub stallions.** For the purpose of this section, a "scrub stallion" is one that has neither a registered sire or dam. After January first, nineteen hundred and twenty-two, no scrub stallion shall be enrolled by the commissioner, except that a scrub stallion which was duly enrolled and registered prior to January first, nineteen hundred and twenty-two, shall be entitled to renewal of enrollment in accordance with the provisions of this article.

§ 105-b. **List of enrolled stallions.** The commissioner shall annually, in the month of January, publish a list for free dis-

tribution of all the stallions enrolled in the state the previous year arranged by counties.

§ 3. Section one hundred and sixty-one of chapter thirty-eight of the laws of nineteen hundred and nine, entitled "An act in relation to liens, constituting chapter thirty-three of the consolidated laws," as amended by chapter three hundred and one of the laws of nineteen hundred and sixteen, is hereby repealed. L. 1909, ch. 33, § 161 repealed.

§ 4. This act shall take effect immediately.

CHAPTER 611

AN ACT to amend chapter five hundred and sixty-four of the laws of nineteen hundred and ten, entitled "An act to provide for county roads in certain counties adjoining cities of the first class," in relation to construction by contract of certain county roads in counties having a population of not less than one hundred thousand or more than one hundred and fifty thousand.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter five hundred and sixty-four of the laws of nineteen hundred and ten, entitled "An act to provide for county roads in certain counties adjoining cities of the first class," as last amended by chapter four hundred of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows: L. 1910, ch. 564, § 2, as amended by L. 1921, ch. 400, amended.

§ 2. **Construction and maintenance of county roads.** County roads as defined in subdivision three of section three of the highway law and as designated pursuant to this act shall be exclusively under the jurisdiction of the board of supervisors and exempt from the jurisdiction of the highway officers of the several towns, villages and cities in which said county roads are located. The expenses of constructing, and maintaining and improving the county roads of such county shall be a county charge. The board of supervisors shall, upon the receipt of the county superintendent's report as provided for by subdivision two-a of section thirty-three of the highway law, or of any supplemental report of the county superintendent made at any time showing that it is necessary to raise funds for the construction, improvement and maintenance of such county roads, stating the amount by towns and as a total and the location where any permanent repairs are required to be made, consider the estimate in such report. It may by a majority vote of the members thereof approve such estimate or increase or reduce the amount of any of the estimates contained therein. The statement as thus approved, increased or reduced shall be signed in duplicate by a majority of the members of the board, one copy of which shall be filed in the office of the county clerk and the other

¹ Previously amended by L. 1918, ch. 295.

delivered to the county treasurer. The clerk of the board of supervisors shall make and transmit a copy of such statement to the state highway commission and to the county superintendent. The board of supervisors shall cause the amounts therein to be raised by the issuance of county bonds therefor or of certificates of indebtedness, notes or other evidence of indebtedness, and if such certificate of indebtedness, notes or other evidence of indebtedness are issued, shall cause the amount thereof to be assessed, levied and collected in the same manner as other county charges in the year next succeeding the issuance thereof, or shall cause such amounts to be assessed, levied and collected in such county in the same manner as other county charges, and such amounts shall be expended only for the purpose specified in such statement. The warrant for the collection of such taxes in such county shall direct the payment of the moneys so collected to the county treasurer to be held by him and paid out for the purpose or purposes specified in such statement, as provided in subdivision two-a of section thirty-three. The construction and maintenance of such county roads shall be under the supervision of the board of supervisors. ²In any such county having a population of not less than one hundred thousand nor more than one hundred and fifty thousand, and adjoining a city of the first class, whenever the estimated cost of the construction of any such county road is the sum of fifteen hundred dollars or more, the same shall be constructed by contract, awarded in the manner provided in section one hundred and thirty of the highway law for the construction of state and county highways.

§ 2. This act shall take effect immediately.

CHAPTER 612

AN ACT to amend the highway law, in requiring indemnity bonds or insurance policies from owners of motor vehicles transporting passengers for hire in cities of the first class.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 282b
added to
L. 1909,
ch. 80.

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by inserting therein a new section, to be section two hundred and eighty-two-b, to read as follows:

§ 282-b. **Indemnity bonds or insurance policies in cities of the first class.** Every person, firm, association or corporation engaged in the business of carrying or transporting passengers for hire in any motor vehicle, except street cars, and motor vehicles operated

² Remainder of section new.

under a franchise by a corporation subject to the provisions of the public service commission law over, upon or along any public street in a city of the first class shall deposit and file with the state tax commission for each motor vehicle intended to be so operated, either a personal bond, with at least two sureties approved by the state tax commission, a corporate surety bond or a policy of insurance in a solvent and responsible company authorized to do business in the state, approved by the state tax commission, in the sum of two thousand five hundred dollars, conditioned for the payment of any judgment recovered against such person, firm, association or corporation for death or for injury to persons or property caused in the operation or the defective construction of such motor vehicle. Such bond or policy of insurance shall contain a provision for a continuing liability thereunder notwithstanding any recovery thereon. If at any time, in the judgment of the state tax commission, such bond or policy is not sufficient for any cause, the commission may require the owner of such motor vehicle to replace such bond or policy with another approved by the commission. Upon the acceptance of a bond or policy, pursuant to this section, the state tax commission shall issue to the owner of such motor vehicle a certificate describing such vehicle and that the owner thereof has filed a bond, or policy, as the case may be, required by this section. Either a personal or corporate surety upon a bond filed pursuant to this section or an insurance company whose policy has been so filed, may file a notice in the office of the state tax commission that upon the expiration of twenty days from such filing such surety will cease to be liable upon such bond, or in the case of such insurance company, that upon the expiration of such time such policy will be canceled. The state tax commission shall thereupon notify the owner of such motor vehicle of the filing of such notice, and unless such owner shall file a new bond or policy of an insurance company, as provided by this section, within such time as shall be specified by the state tax commission, such owner shall cease to operate or cause such motor vehicle to be operated, in such city, and the registration of such motor vehicle shall be automatically revoked. Any person, firm, association or corporation, operating a motor vehicle in a city of the first class, as to which a bond or policy of insurance is required by this section who or which shall operate such vehicle, or cause the same to be operated, while such a bond or policy, approved by the state tax commission as required by this section, is not on file with the tax commission, shall be guilty of a misdemeanor.

§ 2. This act shall take effect July first, nineteen hundred and twenty-two.

In effect
July 1,
1922.

CHAPTER 613

AN ACT to amend chapter five hundred and seventy-two of the laws of nineteen hundred and two, entitled "An act to revise and amend an act to incorporate the city of Middletown and the acts amendatory thereof," generally, and to repeal certain sections thereof.¹

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1902,
ch. 572,
title 1-13;
§§ 2, 3, 8,
9, 12-24, 28,
27, 29, 31,
32, 34-36,
39, 41, 46,
48, 49, 51,
52, 54, 57,
59-65, 68a,
69, 70, 70a,
70b, 71-73,
75, 76, 78-
81, 84-86,
91, 94, 95,
97-99, 101,
102, 106-107,
109-112,
112a, 113-
118, 119, 120,
122-130, 132-
137, 139-141,
149-151, 154-
158, 160-164,
176-189, 192-
196, 198-201,
204, 205,
205a-205c,
206-211, 213,
214, 220,
amended
and re-
pealed.

Section 1. Titles one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve and thirteen; and sections two, three, eight, nine, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-nine, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six, thirty-nine, forty one, forty-six, forty-eight, forty-nine, fifty-one, fifty-two, fifty-four, fifty-seven, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-eight-a,² sixty-nine, seventy, seventy-a, seventy-b, seventy-one, seventy-two, seventy-three, seventy-five, seventy-six, seventy-eight, seventy-nine, eighty, eighty-one, eighty-four, eighty-five, eighty-six, ninety-one, ninety-four, ninety-five, ninety-seven, ninety-eight, ninety-nine, one hundred and one, one hundred and two, one hundred and five, one hundred and six, one hundred and seven, one hundred and nine, one hundred and ten, one hundred and eleven, one hundred and twelve, one hundred and twelve-a, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and nineteen, one hundred and twenty, one hundred and twenty-two, one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and thirty-seven, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-nine, one hundred and fifty, one hundred and fifty-one, one hundred and fifty-four, one hundred and fifty-five, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, one hundred and sixty, one hundred and sixty-one, one hundred and sixty-two, one hundred

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² No amendment or repeal of § 68a is indicated in the text of this act. However the intention probably is to repeal § 68a, as it was inclosed in brackets in the legislative bill as originally introduced in the senate, which, under the rules of the legislature, indicated that it was the intent to repeal that section.

and sixty-three, one hundred and sixty-four, one hundred and seventy-six, one hundred and seventy-seven, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-four, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine, one hundred and ninety-two, one hundred and ninety-three, one hundred and ninety-four, one hundred and ninety-five, one hundred and ninety-six, one hundred and ninety-eight, one hundred and ninety-nine, two hundred, two hundred and one, two hundred and four, two hundred and five, two hundred and five-a, two hundred and five-b, two hundred and five-c,* two hundred and six, two hundred and seven, two hundred and eight, two hundred and nine, two hundred and ten, two hundred and eleven, two hundred and thirteen, two hundred and fourteen, two hundred and twenty, of chapter five hundred and seventy-two of the laws of nineteen hundred and two, entitled "An act to revise and amend an act to incorporate the city of Middletown, and the acts amendatory thereof," as last amended by chapter fifty-six of the laws of nineteen hundred and twenty-one, are hereby amended to read and repealed as follows:

TITLE I.

BOUNDARIES AND WARDS.

§ 2. The said city shall be divided into four wards, described as follows, namely:

First ward. All that part of the same lying in the angle made by a line from the center of Franklin square, through the center of North street and the north plank road, to the northerly bound of the said city and a line drawn from the center of Franklin square through the center of Main street and the road to Mechanicstown, to the easterly bounds of said city.

Second ward. All that part of the said city lying in the angle made by said first mentioned line, and a line drawn from said starting point through the center of Main street and the road to Mount Hope, to the west bounds of the said city.

Third ward. All that part of said city lying in the angle made by the last mentioned line and a line drawn from the center of Franklin square through the center of South street and the road leading past the house of E. Smith Webb, to the southerly line of the city.

Fourth ward. All that part of said city lying in the angle made by the last mentioned line, and a line drawn from the center of Franklin square through the center of Main street and the road to Mechanicstown to the easterly line of said city.

* No amendment or repeal of §§ 205a-205c is indicated in the text of this act. However the intention probably is to repeal these sections, as they were inclosed in brackets in the legislative bill as originally introduced in the senate, which, under the rules of the legislature, indicated that it was the intent to repeal that section.

TITLE II.

ELECTION AND APPOINTMENT OF OFFICERS.

City
officers.

§ 3.⁴ The officers of said city shall consist of one mayor, one alderman-at-large, one recorder, two justices of the peace, nine members of the board of education, all of whom shall be elected by the city at large; two aldermen and one supervisor to be elected in each ward; one corporation counsel, one engineer and surveyor, one commissioner of public works, one commissioner of charities, one city physician, one commissioner of assessment and taxation, two constables, one clerk of the common council and other boards, one city clerk and collector; six persons to compose a board of health; police officers such as may be appointed by the common council, and such other officers as are hereinafter authorized, who shall be appointed as hereinafter provided; also one chief of the fire department and two assistant chiefs, one secretary and one treasurer of the fire department, who shall be elected as hereinafter provided. All appointments by the mayor shall be subject to confirmation by the common council. It shall be the duty of the mayor, within thirty days after the first day of January in each year hereafter, to appoint successors to all appointive officers who are by law required to be then appointed by him. If an appointment made by the mayor shall not be confirmed by the council, another name shall be submitted by the mayor at the next regular meeting of the council thereafter, and this course shall be taken until an appointment shall have been made and confirmed. All the officers of the city of Middletown now in office, elective or appointive, shall continue to remain in office, and discharge the duties thereof, until their successors are elected or appointed in the manner provided by this act.

Canvass
of votes.

§ 8. On the Monday next following such election the common council shall convene at its usual place of meeting at seven o'clock in the evening as a city board of canvassers and the statement of votes filed with the city clerk by the inspectors of election shall be produced by the clerk. The common council shall forthwith ascertain, declare and certify, in the manner provided by law, who are duly elected at the said election to the various offices to be filled; such certificate shall be made in duplicate, one of which shall be filed with the city clerk and the other with the clerk of Orange county.

§ 9. Repealed.

§ 12. Repealed.

Annual
election of
fire depart-
ment
officers.

§ 13.⁵ An election shall be held annually, at such time or times, and in such manner as the common council shall designate, for the election of a chief and two assistant chiefs of the fire department, who shall respectively hold their offices for the term of one year, and until their successors are chosen and confirmed. All persons duly enrolled as members of the engine, hook and ladder and hose companies of said city, who shall not have resigned,

⁴ Previously amended by L. 1901, ch. 653; L. 1911, ch. 699; L. 1916, ch. 200.

⁵ Previously amended by L. 1911, ch. 699.

been removed or suspended, and no others, shall be entitled to vote at such elections. The common council shall provide for the place of holding, the manner of conducting, returning the votes cast, and confirming the officers elected at all future elections for chief engineer and assistants.

§ 14.⁶ Every person elected or appointed to any office created hereby shall be an elector and resident of the city; and no person shall take or hold the office of mayor, alderman-at-large, alderman, member of the board of education, supervisor, or commissioner of assessment and taxation, unless he shall be a resident and a freeholder of said city and shall have been such for one year preceding his election or appointment; and no person shall be elected an alderman or supervisor from any ward unless, at the time of such election, he shall also be a resident of the ward from which he is elected; and if such officer shall remove out of said ward during his term of office, he shall be deemed thereby to have vacated his office and the removal from the city of any officer elected or appointed under this act shall render the office held by him vacant from the time of such removal. Qualifications of officers.

§ 15.⁷ The common council shall fix the amount of the bond to be furnished by the city clerk, and for said city clerk as treasurer, collector of taxes and assessments, and as collector of water rents, and by the clerk of the common council as deputy collector, and the commissioner of charities, and the said bonds shall be furnished by some surety company to be approved by the mayor and the premium on said bonds shall be paid from the funds in the city treasury; and in case of any breach of the conditions of said bonds, suit may be maintained thereon by the said city of Middletown. Bonds of certain officers.

§ 16. Such city clerk and his deputy as collector, and their sureties, shall also be liable to the same proceedings, to enforce the payment of money collected by virtue of any warrant issued by the supervisors of the county, as are provided by law in respect to town collectors and their sureties. Liability of city clerk and deputy.

§ 17.⁷ Such other officers as may be required thereto, by the common council, shall severally, before entering upon their offices, execute and file with the city clerk, except the city clerk whose bond shall be filed with the clerk of Orange county, a bond to the city of Middletown, in such sum as the council shall direct, and with such sureties as the mayor shall approve, conditioned that they will faithfully discharge the duties of their respective offices, and pay over all moneys received by them respectively, and furnish such additional security as the common council may require. Bonds of other city officers.

§ 18. If any officer who shall be required, by any of the provisions of this act, or by any ordinance of the common council, to execute any bond before or after entering upon the duties of his office, shall fail to execute and file the same in the manner prescribed by this act or by any such ordinance, within ten days after he shall have been duly notified to do so, the common council Failure to file bond.

⁶ Previously amended by L. 1911, ch. 699; L. 1916, ch. 200.

⁷ Previously amended by L. 1911, ch. 699.

may declare his office vacant, and proceed to cause the same to be filled in the manner provided in this act in case of vacancy in office.

Elective
officers not
to hold
other office.

§ 19. No elective officer shall hold any federal, state or other municipal office, except as hereinafter provided, during the term for which he was elected; nor shall any alderman or the mayor or any member of any board or department of the city be in any manner, directly, or indirectly interested in any contract, or work, in which the city shall be a party, and any such contract in which any such officer shall be or become interested shall thereby and thereupon be and become void; nor shall any of the persons before named be interested in furnishing to the city supplies of any kind.

Officers not
to be in-
terested in
contracts.

Appointive
officers.

§ 20.⁸ The mayor shall appoint the corporation counsel, engineer and surveyor, two constables, one commissioner of public works, one commissioner of charities, one city physician, one commissioner of assessment and taxation, one city clerk and collector, and all other officers whose appointment is not otherwise provided for. The common council, or a majority thereof, shall appoint a clerk of the common council.

Vacancies,
how filled.

§ 21.⁹ If a vacancy shall occur in any elective office the same shall be filled by appointment by the mayor; in case of a vacancy in the common council it shall be filled by appointment from the ward in whose representation the vacancy occurred; said appointment to be until the first day of January succeeding the next charter election. In case of a vacancy in the office of chief or assistant engineer, by reason of death, resignation or otherwise, the said vacancy shall be filled by appointment by the mayor and any person so appointed to fill a vacancy shall hold his office until the next regular election for chief engineer and assistant. And any vacancy occurring in any appointive office shall be filled by the body or official making the original appointment.

TITLE III.

COMMON COUNCIL.

Common
council;
powers.

§ 22.¹⁰ The general legislative power of the city is vested in the common council, and it shall have, in addition to the powers vested in it by the charter of said city and hereinafter conferred in this act, the management and control of the finances and all property, real and personal, belonging to said corporation, and shall have power to do all such acts and make such ordinances, rules, police regulations and by-laws, not inconsistent with the laws of the United States, as they may deem necessary to carry into effect any general power, the powers conferred upon it by this act or by any other laws of this state, and such also as they may deem necessary for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city and its inhabitants. It shall also have all powers given to the common councils of cities generally, or cities of the third class by general legislative enactment.

⁸ Previously amended by L. 1904, ch. 560; L. 1911, ch. 699; L. 1916, ch. 200.

⁹ Previously amended by L. 1911, ch. 699.

¹⁰ Previously amended by L. 1911, ch. 699; L. 1916, ch. 200.

§ 23. The aldermen shall constitute the common council. Its members shall meet in its chambers, on the first business day of January, at eight o'clock in the evening, and organize. The alderman-at-large shall be the president, and shall preside at all meetings, and discharge such other duties as may be prescribed by law or ordinance. He shall appoint all standing committees of the council. Organ-
ization.

The council shall appoint the time and place of its meetings, which shall be held regularly at least once in each month, and the mayor, president of the common council, or any three aldermen, may call special meetings, by notice in writing, served personally upon the other members of the council, or left at their usual place of abode. The council shall determine the rules of their own proceedings and be judges of the election and qualifications of their own members, and have power to compel the attendance of absent members from time to time and may punish or expel a member for disorderly conduct, or declare his seat vacated by reason of absence, provided such absence be continued for the space of three months. But no expulsion or vacation of the office shall take place except by concurrent vote of two-thirds of all the members elected, nor until the delinquent member shall have an opportunity, after proper notice, to be heard in his defense. Meetings.

In the proceedings of the common council each member present shall have a vote, including the presiding officer. Proceed-
ings.

The sittings of the common council shall be public, except when the public interests shall require secrecy. No vote on any question or matter shall be taken at any secret session. The minutes of the proceedings shall be open at all times to public inspection.

§ 24. Repealed.

§ 26. The common council shall have power to prescribe the duties of all the officers and persons appointed by them, to any office or place whatever, subject to the provisions of this act; to revoke or cause to be revoked any license given under this act, and to remove all officers and persons appointed by them for any neglect of office or misconduct except as hereinafter provided, and shall designate the several standing committees to be appointed by their presiding officer. It may employ an attorney and counsel when the business of the council requires him, and to pay him a reasonable compensation. Further
powers.

§ 27. The chairman of any committee or special committee of the common council shall have power to administer any oath or take any affidavit in regard to any matter pending before the common council or such committee. Any person who may be required to take any oath or affirmation or to make any affidavit or statement, under oath or affirmation under or by virtue of any provisions of this act, who shall, under such oath or affirmation in any statement or affidavit, or otherwise, willfully swear falsely as to any material fact or matter, shall be guilty of perjury. Committee
chairmen
may ad-
minister
oaths.

§ 29.¹¹ All accounts and claims against the said city, and all accounts and claims for services rendered or moneys expended by Accounts
and claims

¹¹ Previously amended by L. 1911, ch. 699.

any officer within said city, which would be charges and accounts against a town if they were rendered and expended by the officers thereof, shall be presented to the common council. The said council shall then hear, examine and determine the same as a board of town auditors and for that purpose shall possess the powers and be subject to the duties of town auditors.

§ 31. Repealed.

General
powers and
duties of
council.

§ 32.¹² The common council shall have the power within said city to make, establish, publish and modify, amend and repeal rules, regulations and ordinances for the following purposes:

a. To prevent the sale of intoxicating liquors, goods or merchandise, or the performance of work or labor, for hire, on Sundays; to prevent vice and immorality; to prevent and quell riots and disorderly assemblages and preserve peace and good order;

To restrain and suppress disorderly and gaming houses, houses of ill-fame, houses and places where intoxicating liquors are sold to be drunk, to prohibit the sale of intoxicating liquors without license, or contrary to law, and to prohibit all gaming and fraudulent devices within the said city.

b. To prohibit, restrain and regulate all public, theatrical or circus performances, shows or wax figures, wild or tamed animals, mountebanks or other public exhibitions or performances for money, shows or performances by common showmen and all places of public amusement for which an entrance or other fee is charged; and to require, fix the amount of, and provide for the collection of license fees therefor; but the common council may, in its discretion, issue and grant to the proprietor of any public hall or other place of public amusement in said city, a license by the year or for such period of time as it deems proper, for such sum as to it shall seem just, which license shall cover and authorize all exhibitions and entertainments which, during said period of time, may take place in such public hall or place of public amusement without other or further license; provided, however, that said common council may at any time prohibit any exhibition or entertainment in such hall or place of public amusement which, in its judgment, shall be of an indecent character.

c. To prevent horse-racing and immoderate driving in the streets of said city; to prohibit and punish the flying of kites and every other game, practice or amusement in the public streets or elsewhere, having a tendency to frighten teams and horses, or to injure or annoy persons passing in or along the highway or streets of the city, or to endanger property; and to prevent the leaving of horses standing in the public streets of the city loose and unattended.

d. To prohibit, regulate and determine the places of bathing in the streams and ponds within said city.

e. To restrain and punish vagrants, mendicants, street beggars and common prostitutes.

f. To prevent and regulate the ringing and tolling of bells, blowing of horns, or crying of goods or wares, firing of guns,

¹² Previously amended by L. 1900, ch. 389; L. 1911, ch. 699.

powder or other explosive compounds, and the making of any improper noise, which may tend to disturb the peace of the city, or the sale and use of firecrackers, rockets, squibs or other explosive compounds.

g. To make regulations for taxing and confining dogs, and for destroying such as may be found running at large contrary to any ordinance, and to regulate and restrain their running at large; to establish and regulate public pounds, and to appoint all necessary pound-masters, and prescribe their duties; to restrain the running at large of cattle, horses, swine, sheep, goats and fowls, and to authorize the distraining, impounding and sale of the same for the penalty incurred, and costs of keeping and proceedings.

h. To direct the keeping and returning of accurate records of marriages and births in said city, and the keeping and returning of bills of mortality. The common council shall cause an account book to be opened and kept by the clerk of said city, wherein all the expenditures and payments made on account of said city shall be respectively entered under their proper heads.

i. To regulate the sale of fish, meats and vegetables within said city; to regulate or prohibit the making or keeping of markets for the sale of meat or fish, except at such places as the common council shall designate, and to regulate or prohibit the erection, keeping or using of slaughter houses within the said city.

j. To provide for the lighting of said city and the streets thereof and the protection and safety of the public lamps.

k. To regulate and restrain hawking and peddling on the streets.

l. To license and regulate auctioneers, carriers, teamsters, carmen, porters, cabmen, the drivers of hackney coaches, stages or omnibuses, for the transportation of passengers, hawkers, peddlers and sweeps, within the city, and to prohibit unlicensed persons from acting in either of such capacities, to fix their rates of compensation, to require them to have licenses and to fix amounts to be paid therefor.

To regulate runners, stage drivers and others in soliciting passengers and others to travel or ride in any stage, omnibus, or upon any railroad, or to go to any hotel or otherwise.

m. To prohibit and prevent the unnecessary obstruction of streets by railway locomotives and cars; to regulate and control their running and rate of speed and the length of time they may be allowed continuously to stand or impede travel upon any street or crossing in said city.

To regulate and compel railway companies to provide and keep flagmen and watchmen at such points and places, and to regulate and maintain such proper lights, hoist or other gates or bars at street crossings deemed dangerous by said common council, in such manner as said common council may deem necessary for the safety and convenience of the public. To regulate and prohibit the emission of smoke or gases from any building, machine, automobile, boiler or engine whatsoever, stationary or locomotive, when the same may tend to the injury of corporate or private property or rights within the city.

n. To prevent and regulate the setting and stringing of telegraph and telephone and electric poles and wires in said city, and to regulate and control the laying, maintenance and repair of subways, conduits, mains and pipes in and under the streets; to order and require any cables or wires to be put under the ground provided however that the owner of such cables or wires shall have the option of removing its overhead cables or wires from such streets to such other streets that may be designated by the common council as a reasonable and practicable route for overhead cables or wires.

o. To require the owners or occupants of lots upon the streets of said city to inclose the same by suitable fences or railings, as the common council may deem necessary for the protection of the public.

p. To regulate the burial of the dead, to protect public cemeteries and to restrict and prevent the extension of their limits, and to prevent the burial of the dead within the limits of the city, whenever the common council shall deem it necessary.

q. To plant, direct and regulate the planting of shade and ornamental trees along the streets, sidewalks and public grounds of said city to prevent injury to and protect them and to prevent the injury and defacement of fences, posts and buildings in said city.

r. To permit building material to be deposited on the streets in front of any lot to such an extent and for such time as they may prescribe. To regulate excavations in the public streets of the city and require reasonable fees therefor.

s. To give names to streets and numbers to the lots and tenements, and to change the name of streets on the petition of a majority of land-owners on the same.

t. To receive in the name of the city of Middletown the title to real or personal property by gift.

u. For the government of the police department and for regulating the powers and duties of its officers and members.

To establish a police pension fund or to maintain any such fund which has been established.

v. To designate such newspaper or newspapers printed in said city, to be known as official paper or papers in which shall be published the ordinances, rules, regulations, resolutions, by-laws and official notices.

w. To make such reasonable regulations and ordinances as to the rate of speed of cars and removal of ice and snow by street surface railroad corporations as the interest or convenience of the public may require, and to provide that any such corporation whose agents or servants shall negligently or wilfully violate such an ordinance or regulation shall be liable to the city for a penalty not exceeding five hundred dollars, to be specified in such ordinance or regulation, to be recovered by said city for the use of the highway fund.

x. To regulate and prohibit the presence in or upon any of the streets, alleys, public parks or places in the city of Middle-

town at night, after such hours as shall be determined and specified, of any children under such age as shall be determined and specified, unaccompanied by parent, guardian or other person having legal custody or control of such children and to make it unlawful for any parent, guardian or other person having legal custody or control of any child under such determined and specified age, to permit such child to be or remain in or upon any of the streets, alleys, public parks or places in said city, after the hour at night as determined and specified when prohibited. To prescribe penalties for the violation of said ordinance, and to prescribe regulations for the police force in the city of Middletown for the enforcement of the same, and for the recorder of the recorder's court of said city of Middletown for the punishment of such persons guilty of violations of the terms of said ordinance.

§ 34. No law, ordinance, by-law or regulation shall be rescinded or repealed, unless by a two-thirds vote of all members elected to the common council.

Repeal of ordinances, etc.

§ 35. The common council shall have power to enforce observance of all provisions of this act, by ordaining penalties to be incurred for each and every violation of the same, not exceeding one hundred dollars for any one offense, to be recovered, with costs, in a civil action, in any court having cognizance thereof, or to remit the same or any part thereof. But nothing herein contained shall be deemed to prohibit or forbid the sale, without suit, of animals distrained or impounded, according to the provisions of this act, for the penalties incurred, or the cost of keeping and proceedings, or the forfeiture or destruction of property determined or adjudged to be a nuisance, or the sale of property for assessments or other purposes, as provided in this act.

Enforcement of provisions of this act.

Saving clause.

§ 36. Every ordinance or by-law imposing any penalty or forfeiture for a violation of its provisions, shall, after the passage thereof, take effect at such times as the common council shall direct, and shall be published once a week for two weeks successively, in one or more of the public newspapers printed and published in said city.

Ordinances imposing penalties, etc.

§ 39. The entries in the books of by-laws, journals and minutes of the common council, board of estimate and apportionment, and board of health or certified or sworn copies thereof, shall be presumptive evidence in all courts and places of the matters of fact therein stated, and the certificate of the clerk shall be sufficient evidence of the authenticity of such journals and minutes and books of by-laws and copies. Such certificate of the clerk to a copy shall show that he has compared such copy with the original on file or on record in his office, and that the same is a correct copy or transcript thereof or therefrom, and of the whole of such original; and every such ordinance, resolution or by-laws may be read in evidence in all courts and legal proceedings, from the volume of by-laws and ordinances published, or to be published, by order of the common council, without any other proof of the passage or publication thereof; but such pub-

Entries in books, etc., presumptive evidence.

lication shall be only presumptive evidence that the same has been duly published in the official newspapers as required by this act.

Impeach-
ment of
mayor.

§ 41. The common council shall have the power of impeachment of the mayor by resolution, passed by the concurrent vote of three-fourths of all the members elected. The court for the trial of impeachment shall be the supreme court in and for the ninth judicial district.

Committee
of common
council may
investigate
administra-
tion of city
business.

§ 46.¹⁸ The council may at any time appoint a special committee of its members to inquire whether the laws and ordinances relating to any matter of any department of the city are being faithfully observed, and whether the duties of the officers and employees are being faithfully discharged, and to examine and report whether there are any unnecessary, inefficient or unfit employees or excessive salaries, wages or compensation paid, and to inquire generally in respect to any and all matters which will conduce to the orderly and economical administration of the business of the city. Such committee shall have access to the records of the city, and for the purpose of any such inquiry shall have the powers conferred upon an officer, person, board or committee by law.

§ 48. Repealed.

§ 49. Repealed.

Fire limits.

§ 51. The council shall prescribe by ordinance the limits within said city within which wooden buildings shall not be erected, repaired or placed, without the permission of the common council and may direct that all or any buildings within the fire limit district be built of stone, or of brick with party walls of the said materials, fireproof roofs and brick, stone or metallic cornices and eavetroughs, under such penalties as may be prescribed by the common council, not exceeding one hundred dollars for any one offense, and the further sum of twenty-five dollars for each and every week any buildings so prohibited shall be continued, but nothing herein contained shall be construed to prevent the erection of iron or steel frame buildings within the fire limits.

Every building hereafter erected contrary to the foregoing provisions, or to any ordinance made in pursuance to this section, is hereby declared to be a common nuisance and may be abated and removed as such by the direction of the common council.

Correction
of assess-
ments by
common
council.

§ 52. The council shall have the power by vote of two-thirds of all its members to correct any assessment claimed to be erroneous or invalid by reason of clerical error in over-valuation, upon the application of the party at interest, his agent or attorney, and to remit the tax upon the excess valuation if such tax has not been paid and if the council deems that an injustice has been done, provided that such application is accompanied by a written certificate signed and sworn to by the commissioner of assessment and taxation and stating that the valuation fixed

¹⁸ Previously amended by L. 1911, ch. 699.

was a clerical error and that he intended to fix a certain other valuation naming such intended valuation. The assessment as corrected by the council must not be lower than the amount named in such certificate.

TITLE IV.

POWERS AND DUTIES OF THE CITY OFFICERS.

§ 54.¹⁴ It shall be the right and duty of the mayor: a. To ad- Powers and duties of mayor.
minister the oath of office to the aldermen elect and communicate to the common council, at least once a year, a general statement of the finances as he shall deem expedient, and annually and as much oftener as he shall deem proper, communicate to the council his views and recommendations with reference to the city government. He shall have power to administer oaths and take affidavits and acknowledgments within said city that justices of the peace have, and shall be entitled to receive therefor from any person, except the city, the same fees and compensation. But all oaths, affidavits, or acknowledgments, taken or sworn before him for the city, or any officer or agent acting for the city, shall be taken without any fee or charge.

b. To have charge and control of the administration and discipline of the police department of said city, of the city jail, and police headquarters, and to order and direct the chief of police and the police of said city to obey, enforce and carry into effect all laws, orders, regulations and ordinances in force in said city which it shall be their duty to obey, enforce and carry into effect; to call out and command the police and firemen, as their head, whenever in his discretion he shall deem an emergency so requires, and such command shall in all respects be obeyed.

c. To be vigilant and active in causing the ordinances of the city and the laws of the state to be executed and enforced within said city, and for that purpose he may call together, for consultation and co-operation, all other heads of the city affairs and departments.

d. To suspend, for cause, any officer appointed by said common council or any officer, appointee or employee of said city, for a term not exceeding thirty days. Whenever any officer, appointee or employee of said city except a member of the police force is suspended by said mayor, he shall forthwith give written notice thereof to the common council, and shall report, in writing, such suspension to the common council at its next meeting thereafter, stating therein the grounds of such suspension, together with such recommendation as he may deem proper. But there shall be but one suspension for the same cause, and the said common council, upon receiving such notice, shall appoint a committee of investigation thereof, which committee shall have power to send for persons and papers, to issue subpoenas for witnesses and compel their attendance, and, by its chairman, to administer oaths, and to fully investigate the same; and the said common council may, in its discretion, restore or dismiss said officer or employee and declare

¹⁴ Previously amended by L. 1911, ch. 699; L. 1916, ch. 200.

his office, appointment or employment vacant and terminated; and in case of dismissal, such office and position shall become and be vacant, and shall be filled by appointment by the mayor as in case of death or resignation of any city officer, except as otherwise provided.

e. In case he deems it necessary, he may appoint any person or persons to perform the duties, or continue to take charge of the official affairs of the officer suspended, until the matter of such suspension shall be investigated and determined.

f. To have power, at all times, to examine the books, vouchers, papers of any department, officer or employee of said city, and to summon and examine, under oath, any person connected therewith.

Clerk of
common
council;
duties,
assistants.

§ 57. The clerk of the common council and other boards of the city shall act as the clerk of the common council, clerk of the board of education, clerk of the board of health, registrar of vital statistics and perform such other duties as may be prescribed by the common council. He shall attend and keep accurate minutes of said council meetings and meetings of said boards and shall conduct their correspondence. He shall assist the city clerk and collector in the collection of taxes and water rents, and shall be his deputy therefor. He may employ such assistants as he may deem necessary provided the same shall have been authorized and the compensation fixed by the board of estimate and apportionment.

Commis-
sioner of
assessment
and taxa-
tion;
powers and
duties.

§ 59.¹⁵ The commissioner of assessment and taxation shall be the head of the department of assessment and taxation. He may appoint and for cause remove such employees as he deems necessary for the proper conduct of the business of his office, provided that the position has been authorized and the salary thereof fixed by the board of estimate and apportionment. The commissioner of assessment and taxation shall possess all the powers conferred upon, be subject to all the obligations imposed upon and perform all the duties pertaining to the office of assessor in the towns of this state, except as otherwise provided by law. He shall complete, on or before the first day of September in each year a general assessment-roll. He shall value all real estate in the city on one common and general principle of valuation which shall apply to all real estate assessed within the city, including improved and unimproved property. In the case of improved property the land shall be valued separately by him and such separate valuation and the aggregate valuation of the whole property shall be entered and appear in separate columns upon the assessment roll. When there are two or more houses on one lot, the valuation of each shall be shown. He shall keep a record of all transfers of real estate in the city. He shall assess the value of personal property in the name of the owner thereof. He shall continuously revise and correct the assessment map. He shall keep an accurate index of the assessment-roll as the same appears from year to year and shall note thereon the changes in the assessments as the same are made with the dates thereof. He shall publish and issue prior to griev-

¹⁵ Previously amended by L. 1904, ch. 560; L. 1911, chs. 187, 699.

ance day each year in pamphlet form for general distribution the assessment-roll as completed by him showing a tabulated comparison with the assessments of the two preceding years. But no error in such pamphlet shall invalidate any assessment or tax levied thereunder.

§ 60.^{1a} In the assessment of any lands in the city for any purpose it shall be sufficient to state the street and number thereof as shown on the assessment map. The commissioner of assessment and taxation shall also enter upon the assessment-roll the name of the owner, in so far as it can be ascertained. No assessment or tax levied thereunder shall be held invalid because of any error in the designation of the owner upon the assessment-roll. Every assessment-roll shall be considered as referring to the assessment map as last amended. When the commissioner of assessment and taxation has completed an assessment-roll and caused the same to be published and issued in pamphlet form as aforesaid, he shall publish at least once in the official newspapers a notice of the completion of the assessment-roll and that it may be seen and examined at his office and of the time, not less than ten days from the publication of such notice when he will hold a public hearing for the purpose of hearing and determining all complaints as to the roll and of revising and correcting the same. For this purpose he shall sit during ten days from eight o'clock in the forenoon to twelve o'clock noon and from three o'clock to five o'clock in the afternoon and from seven o'clock to nine o'clock in the evening, and during such other hours as he may deem necessary. He may add to the assessment-roll any property liable to taxation and the assessment thereof which may have been omitted, upon giving personal notice thereof to the owner, agent or occupant of the property. Such notice may be given by sending written notice by registered mail to the owner, agent or occupant of the property. He shall make all corrections of the assessment-roll within ten days after the close of such hearing and shall forthwith publish at least once in the official newspapers a tabulated statement of such corrections. Any person who shall have presented his grievance in writing to the commissioner of assessment and taxation and shall have sought a hearing before said commissioner and who feels that his property is inequitably or unfairly assessed may apply to the board of equalization and review on the same paper presented to the commissioner as hereinafter provided. Such application shall be in writing and shall state the ground of the applicant's complaint.

The mayor shall appoint one person who in his judgment is familiar with the value of property in the city who with an alderman designated by the council and the commissioner of assessment and taxation shall constitute the board of equalization and review. The members of the board of equalization and review shall receive such compensation per day for each day they are necessarily engaged in the review and correction of the assessments as may be fixed by the board of estimate and apportionment. Within twenty

Assessment-roll; description.

Examination.

Hearing.

Additions.

Corrections.

Board of equalization and review; appointment, compensation, duties.

^a Previously amended by L. 1911, chs. 187, 699.

days after the close of the hearing on the assessment-roll as herein-before provided to be held by the commissioner of assessment and taxation, the board of equalization and review shall receive the complaints in the form above prescribed of all persons who still deem their property to be inequitably and unfairly assessed. If upon the hearing of a complaint and the examination of the roll a majority of the board finds the complaint is well founded, the board shall correct the assessment and the assessment-roll. Such corrections shall be made in red ink.

Filing
assessment-
roll.

After the assessment-roll has been corrected it shall be filed and certified as to its correction by the board of equalization and review with the city clerk on or before the first day of November in each year. The assessment-roll shall thereupon become final and conclusive and said board shall publish at least once in the official newspapers a tabulated statement of the corrections made by it. No erasure shall be made upon the original assessment-roll prior to the confirmation thereof. The city clerk shall, under the direction of the council, correct all manifest clerical errors on the assessment-roll.

Corrections.

Apportion-
ment of as-
sessment.

Any person whose real property is assessed upon the assessment-roll with real property of another person as one piece or plot may at any time after the filing of the assessment-roll submit his deed or other evidence of title to the property to the commissioner. The commissioner shall apportion the assessment and the tax thereon and shall forthwith deliver a written statement of his apportionment to the city clerk. The city clerk shall thereupon enter the apportionment upon the assessment-roll and shall thereafter separately receive the taxes so apportioned. A true copy of the assessment-roll shall be prepared by the commissioner of assessment and taxation and shall at all times be kept in his office, except during tax collection periods, when it shall be deposited and left in the office of the city clerk and collector.

Copy of
assessment-
roll in
office of
commis-
sioner.

Delivery to
supervisors.

Powers and
duties of
supervisors.

On or before the tenth day of November in each year the commissioner of assessment and taxation shall deliver a correct and certified copy of the assessment-roll to one of the supervisors of said city to be by him presented to the board of supervisors as and for the town roll of the city. Nothing in this section shall be construed to prevent the board of supervisors or* Orange county from exercising, in respect to the assessment-roll of said city delivered to them, or the taxes imposed by them thereby, the same powers vested in boards of supervisors in respect to town assessment-rolls and town and county taxes or any correction thereof. Said roll shall be returned by the board of supervisors to the said commissioner.

City clerk;
powers and
duties.

§ 61.¹⁷ The city clerk shall keep all papers belonging to the said city, he shall act as the clerk of the board of estimate and apportionment and attend all their meetings; and shall also perform all the duties of treasurer and collector of taxes and water rates of said city. His office is hereby declared a town clerk's

* So in original. [Evidently should be "of."]

¹⁷ Previously amended by L. 1911, ch. 609; L. 1916, ch. 200.

office, for the purpose of depositing and filing therein all books, chattel mortgages and papers required by law to be filed in a town clerk's office, and he shall possess all the power, and discharge all the duties of a town clerk, except so far as the same shall be inconsistent with other provisions of this act. He shall have power to administer oaths and take affidavits and acknowledgments within said city that justices of the peace have, and shall be entitled to receive therefor the same fees and compensation. But all oaths, affidavits or acknowledgments, taken or sworn before him for the city, or for any officer or agent acting for the city, shall be taken without any fee or charge. The city clerk shall not hold any other office or position under the city government, except the office of treasurer, treasurer of the police pension fund and collector of taxes and assessments and water rents as herein provided, and he shall not receive from the city, nor from any other person or persons, any fee or reward for any services as clerk, except for filing and recording papers as town clerk, except as provided by this charter, and except that when certified copies of papers are required for evidence by any person or party except the city, he shall be entitled to ten cents per folio therefor, but any other person shall have the right to take copies of any records or papers of the corporation for evidence.

The city clerk shall have power to employ such assistants as employees as he may deem necessary, provided that the same has been authorized and the compensation thereof fixed by the board of estimate and apportionment.

§ 62.¹⁸ The treasurer of said city shall be the city clerk and collector who shall receive all moneys belonging thereto, as well as the moneys raised by authority of the board of supervisors of the county of Orange and the moneys raised by authority of the common council; and he shall keep an accurate account of all receipts and expenditures in such manner as the common council shall direct. He shall deposit all moneys received by him daily during tax collection periods in such banking institutions as may be designated and approved by the board of estimate and apportionment. All moneys shall be drawn from the treasury in pursuance of the order of the common council, by warrants signed by the mayor, or acting mayor and the city clerk; such warrant shall specify for what purpose the amount therein named is to be paid, and the city clerk as treasurer shall keep an accurate account of all orders drawn on the treasury, in a book to be provided for that purpose, which shall be open to the inspection of any elector of said city at all reasonable hours. At the close of the financial year the city clerk shall prepare and file with the common council a full statement of receipts and expenditures, after the date of his last annual report, and also the state of the treasury, which report shall be printed and published in recapitulated form, in the official newspaper or newspapers and said city clerk shall also report to the common council, at each regular monthly meeting thereof, what moneys have been received by

Treasurer:
powers and
duties.

¹⁸ Previously amended by L. 1907, ch. 653; L. 1911, ch. 699.

him during the preceding month, with a statement showing to what fund such moneys have been credited by him.

The reports of the city clerk, treasurer, and board of education shall be filed and published each year in December for the financial year ending November thirty and shall date from their last annual reports.

City clerk,
duties as
collector
of taxes.

Report to
common
council.

Entry of
unpaid
taxes.

Percentages
and inter-
est to be
added.

§ 63.¹⁹ The city clerk shall be the collector of taxes and assessments in said city and shall perform the duties and be subject to the liabilities and obligations prescribed by law for town collectors, subject to the provisions of this charter, and he shall keep his books in such manner as the common council may prescribe; and all taxes and assessments to be collected within the limits of the city shall be collected by him. Immediately upon the expiration of the time limited in any warrant issued to him for the collection of any tax or assessment, said collector shall report and make return to the common council, under oath, stating the amount by him collected, and that he has entered upon the assessment or tax roll the several payments made to him, opposite the name of each person, company or corporation so paying, his payments of the money so collected, to what officer, with his vouchers therefor; and the several amounts of taxes or assessments which have not been collected by him and remaining unpaid, with the names of those who have not paid opposite such amounts, and on such report being received and accepted by the common council the several items of unpaid taxes or assessments contained therein shall be entered by said collector in a book provided by said common council, and to be kept by him in his office. On all taxes or assessments, except as provided in this charter, remaining unpaid after the expiration of thirty days the collector shall collect five per centum additional as a penalty, and on all remaining unpaid on the first day of September next after such first publication there shall be collected, in addition to said five per centum penalty, interest at the rate of one per centum per month from the date of said first publication, except on one-half the tax levied for the state, county and city and remaining unpaid not more than six months from the date of said first publication and upon all said one-half of the tax levied for the state, county and city remaining unpaid after the expiration of thirty days from the date of the first publication of the second notice, there shall be collected five per centum additional penalty, and on all thereof remaining unpaid on the first day of February next after the first publication of the second notice there shall be collected interest at the rate of one per centum per month from the date of said first publication of the second notice. All said interest, excepting the five per centum penalty added after the expiration of the thirty-day period, shall belong to the city, and such tax or assessment and the interest thereon at the rate aforesaid together with the highest rate of fees for collecting the sum specified in such warrant, may be sued for and recovered by the city against any person liable therefor except as other-

¹⁹ Previously amended by L. 1911, ch. 187; L. 1916, ch. 200.

wise provided in this act; and the said collector shall report to the said common council at each monthly meeting thereof, all moneys collected by him on each docket, and shall pay over the moneys so collected to the city treasurer. The common council shall provide a suitable room for the collector's office, and all necessary books, blanks, and stationery for his use, and the collector shall attend at such room in the discharge of his duties at such time as prescribed in section seventy-three of this charter. The city clerk so performing the duties of collector shall not be entitled to collect or receive any fees for his service other than the compensation or salary to be paid him as such city clerk, except that after the expiration of thirty days from the time any general or special tax shall be due and payable, as herein provided, it shall be his duty to add the sum of five per centum upon all such taxes then remaining unpaid, as fees. The said clerk as collector, shall not be entitled to any fees for collections which shall be made by the corporation counsel or other attorney for said city, for any tax or assessment which shall be placed in the hands of such counsel or attorney for collection; and such counsel or attorney shall pay all taxes or assessments, including interest and fees named in the warrant which he shall collect, to the city clerk as collector and shall take receipt therefor, showing the several amounts collected, the tax or assessment for which received, and from whom, and such collector shall then make the necessary entries upon his books showing such payments, so as to discharge the same thereon. In case the collector shall not use due diligence in the collection of taxes or assessments, or comply with the requirements of this section, it shall be sufficient cause, and he may be suspended by the mayor, and removed by the common council, pursuant to the provisions of this charter with reference to the suspension and removal from office.

Collector's
office.

Compensa-
tion of
collector.

Tax col-
lected by
corporation
counsel
or other
attorney.

Suspension
or removal
of collector.

§ 64. The board of estimate and apportionment shall consist of the mayor, who shall be its president, the president of the common council, and the president of the board of education. The board shall meet upon the call of the mayor, and as directed by resolution of the board itself, and not less than once in each month. It shall be the trustees of the police pension fund and of all sinking funds. Each act of the board shall be by resolution adopted by a majority vote of its members. The board shall fix the powers and duties and regulate the salaries and compensation of all city officers and employees, except as otherwise provided in this act but no such salaries or compensation shall be effective until approved by the common council.

Board of
estimate
and appor-
tionment.

The annual salary of the mayor shall be two thousand dollars. The annual salary of the president of the common council shall be five hundred dollars. The annual salary of each alderman shall be three hundred dollars. All salaries, except those of the aldermen, shall be paid monthly at the end of each month; the salary of each alderman shall be paid quarterly at the end of each quarter.

Salaries of
mayor and
aldermen.

Except as otherwise provided in this act, the board of estimate and apportionment shall make all purchases of supplies, ma-

Duties of
board of
estimate

and appor-
tionment.

terials, machinery, tools and appliances for the city and its various departments, and shall make all contracts for materials or supplies to be purchased and for work to be done for the city and its various departments, and shall make written monthly reports thereof to the common council.

Corporation
counsel;
qualifica-
tions and
duties.

§ 65.²⁰ The corporation counsel of said city shall be an attorney and counselor of the supreme court of the state of New York, and shall be the legal adviser of the common council, mayor and of all other city officials and boards. It shall be his duty, when required so to do, to prosecute all suits, actions and proceedings brought in the name of or to be defended in behalf of the city of Middletown, or any of its boards, and also to appear on behalf of the people and prosecute in the recorder's court of said city all criminal actions and proceedings which he shall be directed by the mayor to prosecute in said court.

Contracts
for ma-
terials or
construc-
tion.

§ 66.²¹ All contracts for materials or for construction work and all purchases of supplies involving more than five hundred dollars shall be made by sealed proposals in writing, and of each contract there shall be three originals executed by the parties, which shall be numbered with the same number and indorsed with the date of the contract, the name of the contractor and a summary of the work to be done or materials furnished, one of which shall be given to the contractor, one to the treasurer of said city, and one retained by the common council or board of estimate and apportionment.

Proposals.

Public notice shall be given in the official newspapers of the time and places at which sealed proposals will be received for entering into contracts; all sealed proposals for contracts shall be for a sum certain as to the price to be paid or received, and no proposition which is not thus definite and certain shall be received or acted on, and no more than one proposition shall be made by or received from any one person for the same contract, and no proposal or contract shall be assigned without the consent of the common council or board. Such proposals must be accompanied by a deposit of five per centum of the bid on such contract. No proposal shall be opened until the advertised time and all proposals shall be opened and read in public view and thereafter tabulated. The board shall have the right to reject any and all bids submitted to it. All deposits, except that of the successful bidder shall be returned. If the successful bidder shall refuse or neglect to enter into a contract in accordance with his proposal, the deposit shall be forfeited and retained by the city as liquidated damages. Upon the execution of the contract a suitable

Deposits.

Contractor's
bond.

bond, to be approved as to form by the mayor and corporation counsel, shall be given by the contractor with proper surety or sureties to be approved by the said board conditioned for the faithful and prompt performance and completion of the work as specified in the contract. If the contractor shall abandon the

²⁰ Previously amended by L. 1911, ch. 690; L. 1916, ch. 200.

²¹ Previously amended by L. 1911, ch. 699.

work the city may elect to complete the same, and in that event it shall not be necessary to readvertise for bids therefor.

Whenever any work shall have been performed by any contractor, under any contract made with such contractor by the common council or board of estimate and apportionment and a certificate of the amount and value of the work performed or done by said contractor shall have been received from the city surveyor, the common council shall have authority to issue certificates of indebtedness to said contractor, stating therein the amount of work done, and the amount due said contractor, and also, that an amount, to be as stated in said certificate, shall be paid by the city of Middletown out of the assessment made or to be made for the improvement on which said work was done, whenever the assessment shall be collected.

Issue of
certificates
of indebted-
ness.

§ 67.²¹ The city engineer and surveyor shall be subject to the orders of the commissioner of public works at all times. He shall under his supervision be the inspector of all buildings and shall do all the surveying and engineering work for all departments of the city and shall keep map records of all sewers, water mains, grades of streets and of all curbing ordered. All maps and profiles pertaining to the water works, water mains, sewers, streets, and curbing and grading of streets, and all tax maps of the said city, shall be filed with, and remain in the custody of, the said city engineer and surveyor and it shall be his duty, from time to time, to make such changes and alterations as may be necessary therein, and to keep and maintain the same so as to accurately show all such changes whenever and wherever they may occur. The common council may cause a map to be made of all the streets, highways, side and cross walks, drains, sewers and water mains in said city, which map shall be filed in the office of the said city engineer and surveyor; and maps of all changes, additions or alterations in or to said streets, highways, alleys, side and cross walks, drains, sewers and water mains, subsequent to the filing and recording of said map, shall be filed therewith as soon after such changes, additions or alterations are made as may be. Such records and maps shall be prima facie evidence of the facts therein stated, described or portrayed in all actions and courts, and the said lands so mapped shall be, and shall thereafter continue to be, the property of said city.

City en-
gineer and
surveyor.

Maps.

§ 68.²² It shall be the duty of the commissioner of public works to superintend, under the direction of the mayor and common council, all work to be done or performed upon any of the public highways, streets, gutters, walks, cross walks, bridges, sewers, sewage disposal works, or public grounds, or property of said city; to see that the streets and public places of said city are safely maintained, and that all holes in streets are immediately filled, and that all drains are at all times kept open; to provide for the removal of dirt, snow, ice and refuse from the streets of said city; to have charge and control of the reservoirs, water

Commis-
sioner of
public
works;
powers and
duties.

²¹ Previously amended by L. 1911, ch. 699.

²² Previously amended by L. 1911, ch. 699; L. 1916, ch. 200.

works, filter plant and water pipes and mains of said city, and to enforce all proper rules and regulations and orders to provide for the protection and preservation of said water works, reservoirs, mains and all property connected therewith; to make all needed repairs and procure all the necessary supplies for said fire department and separate companies thereof except as otherwise provided in this act; to purchase, at the expense of said city, necessary materials, tools, implements, machinery and utensils; and hire and employ the requisite laborers and assistants provided the same shall have been authorized and their compensation fixed by the board of estimate and apportionment.

He shall compel every person to clean the ice and snow from the sidewalk in front of any lot owned or occupied in whole or in part by such person, and in case of neglect so to do the said commissioner of public works shall clean or cause to be cleaned such sidewalk and the expense thereof, together with six per centum in addition thereto shall become a lien upon said lot and property to be collected in the same manner as other assessments are collected as provided by this act.

He shall possess all the powers and discharge all of the duties of commissioners of highways of towns of the state except as limited by this act.

No street shall be opened nor shall anything be erected in said streets without the permission of the commissioner of public works, except by order of the common council.

He shall also enforce all ordinances and regulations relating to the construction, repair and alteration of the buildings in the city.

He shall have charge of all poles and wires and see that they are kept safe and in good repair.

Justices of
peace;
jurisdiction,
etc.

§ 69. The justices of the peace of said city shall have and exercise all the powers, authority and jurisdiction, and discharge all the duties, and be entitled to the fees and compensations of justices of the peace of the several towns in this state. And all laws applicable to justices of the peace in the several towns, and to their official acts, duties and powers, shall apply to the justices of the peace residing in said city. Such justices of the peace shall not have criminal jurisdiction upon any offenses arising in or committed in said city, except when any such justice of the peace shall act in the place of the recorder in case of his absence or disability. Appeals from any judgment rendered by any such justice may be taken to the county court of Orange county, within the time and in manner prescribed by law for appealing from judgments rendered by justices of the peace of towns, and all provisions of law relative to appeals from such judgments shall apply to appeals from judgments rendered by any justice elected pursuant to this act.

Constables;
powers and
duties,
bond.

§ 70.²³ The constables shall hold office subject to the provisions of this act and shall have the same powers and be subject to the same duties and liabilities and be entitled to the same fees and compensation as constables of towns in this state. Every person

²³ Previously amended by L. 1911, ch. 699.

appointed to the office of constable in said city shall, before he enters on the duties of his office, execute, with two sureties, a bond to be approved by the mayor, which shall be acknowledged by all the parties in the manner required to be acknowledged by law and filed with the city clerk; and by which said constable and sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as said constables may become liable to pay by reason or on account of any execution or other precept which shall be delivered to him for collection. All actions on any such instruments shall be prosecuted before the expiration of two years for which such constable shall have been elected or appointed, and may be brought in the name of the person or persons entitled to any money to be collected by virtue of said instrument. A copy of the said instrument, certified by the clerk under the city seal, shall be presumptive evidence of the execution thereof by said constable and his sureties.

§ 70-a.²⁴ Repealed.

§ 70-b.²⁴ Repealed.

TITLE V.

ASSESSMENT AND COLLECTION OF TAXES.

§ 71.²⁵ On or before the first day of September in each year the common council, all heads of departments, boards, recorder and officers empowered by law to expend money shall furnish to the mayor as presiding officer of the board of estimate and apportionment itemized estimates in writing of the amount required for the next fiscal year in their respective departments, boards, courts or offices. Such estimate shall set forth in detail the amounts required for salaries and expenses and all other necessary items according to rules prescribed by the board of estimate and apportionment. Thereafter during the month of September and on or before the last day of said month, the mayor shall lay the estimates before the board of estimate and apportionment. The board of estimate and apportionment may make such changes in the estimates as it shall deem necessary. If it reduces the estimate submitted by the board of education, the estimate shall forthwith be returned to the board of education which shall have power within ten days by a vote of two-thirds of all its members, to readopt the estimate and it shall thereupon be included in the annual estimate. A copy of the estimates shall be filed with the city clerk at the same time they are filed with the mayor. The board of estimate and apportionment shall file with the city clerk an itemized estimate for any expenditure not included in the foregoing estimates for which appropriation is to be made. On or before the fifteenth day of October of each year the board of estimate and apportionment shall make an itemized statement in writing of the estimated revenues and expenditures of the city

Annual
estimate.

Annual
financial
statement
of board of
estimate.

²⁴As added by L. 1911, ch. 699.

²⁵Previously amended by L. 1904, ch. 560; L. 1907, ch. 653; L. 1910, ch. 50; L. 1911, chs. 187, 699; L. 1921, ch. 56.

for the fiscal year other than the amounts to be raised by taxation for state and county purposes. Said board shall also make a detailed statement of all the property revenue which in its judgment will be received by the city during the fiscal year, and a statement of the amount of the sinking fund which in the judgment of the board will be available for the payment of the principal or interest on any bonded indebtedness of the city falling due during the fiscal year. The board shall also make a supplemental statement of all unencumbered balances of the previous fiscal year. The estimate of expenditures shall contain an itemized statement of the several amounts of money which the board of estimate and apportionment deems it necessary to provide for all departments, boards, bureaus, courts, offices, purposes, functions, funds and accounts authorized or directed by law and may also include in its estimate of expenditures a sum not exceeding two hundred dollars for the purpose of observing Memorial day by decorating graves of soldiers to be expended under the direction of the various veteran associations of the city. After the annual estimate showing the estimated net amount required to be raised by taxation for said purposes has been completed, the board of estimate and apportionment shall submit the same in final form to the council with a statement in writing of its reasons for such estimates.

To be submitted to council.

Powers of council.

Levy for state and county purposes.

Budget.

Contingent fund.

Annual tax.

Said council shall have the power to correct, revise and amend such estimate or any part thereof, but it shall have no power to increase the total thereof. The board of estimate and apportionment shall also submit to the council when received the sums apportioned by the board of supervisors of Orange county to be levied in the city for state and county purposes. Said estimate of the amounts required to be raised by taxation for city purposes as corrected, revised and amended, together with the sums directed to be levied for state and county taxes shall be adopted without change by the council and the same shall thereupon become the annual budget and shall be entered in full on the minutes of the council. The board of estimate and apportionment may make an apportionment or supplement an apportionment by the transfer from the contingent fund of such an amount as it deems necessary. No direct charge for expenditures shall be made against the contingent fund. The amounts included in the estimates of the several departments, boards and offices to be raised by tax for the expenses of the general maintenance and repair of streets and lighting the same, expenses of the fire department, printing, salaries of officers, building and repairing bridges, election expenses, and of all such further sum or sums that may be required during any one year for carrying on the ordinary affairs and general expenses of the city, as authorized by this act or charter, excepting for school and board of health purposes shall not exceed the sum of one hundred and fifty thousand dollars, exclusive of the amount to be levied or raised within said city for school and board of health purposes and necessary to pay the principal and interest of the public debt of said city, or any other

obligations or debt which by law may be created against the city; and also exclusive of such amount as may be necessary to make up the deficiency occasioned by previous illegal and erroneous assessments and uncollected taxes and assessments; and shall be raised by general tax. The common council shall also direct and cause such amount to be raised annually by general tax as shall be necessary for school and board of health purposes as certified by the board of education, and the board of health in the manner now provided by law, and as shall be necessary to pay the principal and interest of the public debt of the city of Middletown, water bond debt, including sums required for the sinking fund, and any permanent debt incurred or contracted by said city, and also such additional amounts as may be necessary to make up the deficiency occasioned by previous illegal and erroneous assessments and uncollected taxes and assessments.

§ 72.²⁸ Whenever the common council shall be of opinion that the interests of the city require the expenditure of money for any extraordinary or special purpose, which, in its opinion cannot be paid from the sum of one hundred and fifty thousand dollars, hereinbefore mentioned, after defraying the ordinary current and contingent expenses, or that the ordinary and contingent expenses of any one year cannot be defrayed without raising an additional sum as a contingent fund, it may make an estimate necessary to be raised for such purposes, and each of them, if there be more than one such subject, and state the amount and objects for which it is required, together with the reasons for its opinion, and cause such statement and estimate to be published in the official newspaper or newspapers of said city; and shall give notice therein that, on a day and place therein specified, a special election will be held at which the question, whether the said sum or sums shall be raised or not, will be submitted to the qualified voters for their determination. Said statement and notice shall be published once a week for three weeks next preceding said day of election. The common council shall designate in said notice some central and convenient place in said city for holding the said election, and it shall appoint three inspectors of said election, and may fill all vacancies and said inspectors shall take the oath required by law to be taken by inspectors of charter elections in said city and in the same manner, and they shall have the same powers and perform the same duties as the last mentioned inspectors. Every resident of said city, of the age of twenty-one years, whose name shall be in the assessment-roll made by the commissioner of assessment and taxation of said city next preceding said special election, and upon whose property, or upon whom, as the owner or possessor of the property, a tax shall be assessed or imposed by said roll, including women so qualified, and no other person or persons whatever shall be entitled to vote at the said special election. The assessment-roll made by the commissioner of assessment and taxation, or a copy

Special elections to authorize raising additional funds.

Notice of election.

Place of holding.

Inspectors.

Qualifications of voters.

²⁸ Previously amended by L. 1907, ch. 653; L. 1910, ch. 50; L. 1911, ch. 699; L. 1916, ch. 200; L. 1921, ch. 56.

thereof, certified by the clerk, or the mayor, or presiding officer of the said council, shall be evidence of the names and assessment aforesaid. Every executor, administrator, trustee, devisee, heir or guardian, as the possessor or representative of property so chargeable, shall be considered a duly qualified voter at such meeting or special election. The inspectors of said election thus appointed, on the day and at the place specified, and from two o'clock in the afternoon until eight o'clock in the evening, without closing the polls, and in the manner provided by law for holding charter elections in said city, shall proceed to receive the ballots of the persons qualified to vote at the said special election, on which ballots shall be written or printed or partly written and partly printed in the inside thereof the object for such special tax, and in the margin, and opposite to such object or statement, shall be placed the words "Yes" and "No" one above the other and opposite each of said words "Yes" and "No," shall be printed two squares enclosed in ruled lines one above the other; and if there shall be more than one object for a special tax proposed at any such election, then those several objects shall be specified on one piece of paper, and in the margin and opposite each of those several objects or statements shall be placed the words "Yes" and "No," one above the other and opposite each of said words "Yes" and "No" shall be printed two squares enclosed in ruled lines one above the other, and deposit the same in a box similar to the boxes required to be used under the general election law. At the top of each of such ballots shall be printed the following words: "Notice to electors. For an affirmative vote upon any question submitted upon this ballot make a cross X mark in the square opposite the word 'Yes.' For a negative vote make a similar mark in the square opposite the word 'No.'"

The common council may, by resolution, at the time of designating the time and place for holding such election provide, that, in place of receiving the ballots of the persons qualified to vote at such special election as above set forth, a voting machine or machines which have been duly adopted by the said common council for use at general elections may be used. Such voting machine or machines shall be provided with ballots on which shall be written or printed or partly written and partly printed the object for such special tax or taxes and if there shall be more than one object for a special tax proposed at any such election then those several objects shall be specified on separate ballots and shall be affixed in the ballot holder of said voting machine or machines, and, adjacent and opposite to, or directly under, those several objects or statements shall be placed the words "Yes" and "No," with a mechanical device or lever by which a person qualified to vote may indicate his choice by pulling, pushing or moving said lever toward the word "Yes" or the word "No" and thereby register his or her such vote as designed or intended. If any person offering to vote at such election shall be challenged in relation to his right to vote thereat, by any other person entitled to vote at the said election, one of the inspectors shall tender him the fol-

Conduct of election.

Ballots.

Voting machines.

Challenges.

lowing oath: "You do swear (or affirm) that you are a resident and taxpayer of the city of Middletown and you are of the age of twenty-one years, and that you have not voted at this election." If he shall take such oath, and shall be named and assessed upon said roll aforesaid, or shall show his relation as such executor, administrator, trustee, devisee, heir or guardian, as the possessor or representative of such property so chargeable, his vote shall be received; if he decline to take such oath his vote shall be refused. All provisions of law for punishing false swearing and fraudulent voting at the said charter election, so far as the same can be applied, and for preserving order at the polls, shall be applicable to the said special elections and the proceedings thereat. The said inspectors shall canvass the votes received at said special elections, immediately after the closing of the polls, without adjournment, and then make a certificate under their hands, or the hands of two of them, stating the whole number of ballots received; in the case of every tax voted upon at such election, the whole number for each special tax, and the whole number against each special tax, and return the same by the hands of one of them to the common council, or to the mayor or clerk forthwith thereafter. The said certificate, if received by the mayor or clerk, shall be delivered by him to the common council at their next meeting, and the said council shall cause the result of said election as appearing by said certificate, to be entered in their minutes; and if it shall appear that the whole number of votes received at such election in favor of any such object or statement exceed the whole number of votes cast against any such object or statement, it shall be the duty of the common council to cause the said sum or sums to be assessed, levied and raised in addition to the said sum of one hundred and fifty thousand dollars and all other taxes, in and by the next assessment-roll, or in and by successive equal annual installments thereafter, and in the same manner and with the same power and authority as herein described and conferred in reference to said one hundred and fifty thousand dollars. After any such special tax or taxes shall have been authorized as herein provided, the common council may proceed to authorize the expenditure of the amount thereof, for the object or objects specified in their published statement and sanctioned by such election, and the common council may borrow, if they shall deem it necessary to do so, the amount so voted in anticipation of the collection of said tax, payable in equal annual installments, if the loan shall be made for more than one year, which installments shall be levied and collected in the same manner as the general tax of the city, and the amount so borrowed shall be expended for which the special tax was raised, and shall be repaid as soon as the same shall become due, from the proceeds of the tax levy. The sum and sums of money raised by any special tax shall be paid to and kept by the city treasurer, distinct from other money, and entered in a separate account, and shall be appropriated by the common council exclusively to the object or objects mentioned in their

Laws for
charter
election
applicable.

Canvass.

Assessment
of sum
directed.

Expenditure
for objects
specified.

Temporary
loan.

Sums to
be kept
separate.

public statement. Nothing herein contained shall conflict with or affect in any way the proceedings, powers, rights and duties of the mayor and common council of said city, now provided by law.

Vote of
aldermen.

No special appropriation shall be submitted to the vote of the taxpayers unless it shall have received a majority of the votes of the aldermen elected and in office.

Assessment
of tax.

§ 73.²⁷ The tax so directed to be raised shall be assessed upon all the taxable real and personal property in the city, according to the valuation of the city assessment-roll of the current year, after the same shall have been corrected as hereinbefore provided. The said tax, together with any special tax which shall have been voted as herein provided, shall be levied by the common council at some meeting thereof on or before the tenth day of December

Assessment-
roll.

in each year. The commissioner of assessment and taxation under the direction of the common council, shall extend and apportion said tax on the assessment-roll delivered to him as aforesaid, also one-half tax where there are two or more properties assessed to the same person, and shall correct all clerical errors in the description and valuation of all property and certify to the board of supervisors the total amount of the assessment-roll, and the board of supervisors shall certify to the city clerk the amount of taxes for state and county purposes assessed upon the city on or before December fifteenth in each year and the commissioner of assessment and taxation shall extend and apportion said taxes on the assessment-roll together with the city taxes as in this act provided, and shall forthwith file the same, and shall make a full duplicate or copy of the same, with the tax so extended and apportioned, and shall certify such copy to be a correct duplicate

Warrant of
collection.

of the city tax-roll. Such roll shall on or before the first day of January be delivered by the common council to said city clerk as collector, with a warrant annexed, under the seal of the city, to be signed by the mayor, commanding him to review, levy, and collect the several sums in the roll specified as assessed against the persons or property therein mentioned or described for state, county, municipal and other purposes with such rate per centum upon said sums for collecting the same, as herein provided, and return the said warrant and roll within ninety days after the date of the warrant. Immediately on the delivery of the roll and

Publication
of notice
for payment
of taxes.

warrant to the city collector, and again within two weeks of six months after the date of the first publication he shall publish notice thereof daily, for ten days, in the official newspapers published in said city, designating some central and convenient place within the city, where said collector will attend each working day of the week except Saturday afternoons and holidays for thirty consecutive days, from the date of the first publication of the notice, and give notice that he will attend at such place with said roll and warrant from nine o'clock in the forenoon until three o'clock in the afternoon excepting from twelve

²⁷ Previously amended by L. 1911, chs. 187, 699.

o'clock noon until one o'clock in the afternoon, for the purpose of receiving payment of city, county and state taxes; and it shall be the duty of said collector to attend accordingly and any person may pay his taxes at the time and place so designated on paying such fees thereon as in this act provided. At the time of delivery to him of such roll and warrant, the collector shall endorse on the assessment and tax-roll on file with the clerk a receipt acknowledging by him of the duplicate of such roll and warrant as city collector, and he shall proceed to collect the unpaid taxes in said roll specified, in the manner provided by law for the collection of county taxes, and shall have and possess all the powers and authority conferred by law on the collector of county taxes, and shall in like manner, pay over all money collected by him to the city treasurer, and shall take his receipt therefor, and shall make return to the common council of the amount collected and paid over by him and of the taxes remaining unpaid; and upon making oath before some officer authorized by law or this act to administer oaths and take affidavits, similar in all respects to the oath required by law of collectors of county taxes he shall be credited by the common council with the amount so remaining due and unpaid. And every assessment upon real estate, or water rents imposed under this act, may, when due, be collected in the same manner as herein provided for the collection of taxes. The collector shall forthwith deposit all moneys received by him in the designated depositories to the credit of the city.

Collection.

Deposit
of moneys.

§ 75.²⁸ There shall be four funds, which shall be kept separate and intact from each other, namely: A general common council fund, which may be subdivided into smaller funds for different purposes, a board of education fund, a water department fund, and an excise fund, and such additional fund as has been or may be hereafter established by the common council as a police pension fund. The common council shall have power to make transfers from different accounts in the general common council fund but it shall at no time order drafts to an amount in excess of the amount appropriated and available for general city purposes, and may also temporarily transfer such amounts as it may deem advisable from one of the above named four funds to another but no such transfer shall be made from the police pension fund, in anticipation of the next annual or semi-annual tax installment, but such sum shall be transferred directly after the collection of such tax.

Separate
funds.

§ 76. It shall be the duty of the collector of the city to pay over to the treasurer of the county, all the moneys he shall have received for state and county purposes, and if the full amount of such taxes as required by roll and warrant from the board of supervisors shall not be paid to the county treasurer on or before the last day of April then it shall be the duty of the collector of the city to pay over the balance of the moneys for such taxes, if any, in his hands, and if there remains a deficiency, the com-

State and
county
moneys to
be paid to
county
treasurer.

²⁸ Previously amended by L. 1911, ch. 690.

mon council shall then authorize the same to be paid from the common council fund and the city collector shall not be required to make any return of the unpaid taxes to the county treasurer.

Bond
issues.

Bonds; exe-
cution,
interest,
sinking
fund, etc.

§ 78.²⁹ a. When any question, involving the raising of funds for any purpose, is submitted to the taxpayers at a special election, if the council shall be of the opinion that the amount to be raised is too large to be raised by certificates of indebtedness, or if it deems it more advisable for any reason, it may issue and sell bonds of the city for that purpose; such bonds shall be signed by the mayor and the city clerk and the seal of the city affixed thereto, and shall bear interest at not exceeding six per centum per annum, and become payable at such future period, not in excess of forty years, as the council may direct. A sinking fund for the purpose of payment of each such issue of bonds shall be provided, and there shall be levied by annual tax, or appropriated annually from the revenues of the department for the benefit of which the bonds are issued, the proper proportion of a sum sufficient to meet said bonds at their maturity. Said bonds shall be assignable and transferable, and may at the option of the holder be registered, in which case they shall be transferable only by endorsement of the person in whose name they may stand as owner on the books of the city clerk. They shall contain a statement of the purpose for which they are issued, and that a sinking fund has been provided for their payment.

Refunding
bonds.

b. The council may borrow money and issue new bonds from time to time hereafter, as the bonds issued by the city shall respectively mature and fall due, to take up and replace, or as substitutes for such maturing bonds, provided the city has not sufficient funds on hand when said bonds shall mature to pay the same, which bonds shall draw interest from date, payable semi-annually, at a rate not exceeding six per centum per annum, and be payable at such times, and shall be in such form as the council shall direct when ordering the issue thereof, and a sinking fund as provided for in this section shall be provided for the payment of such bonds. The proceeds of the bonds so issued shall be used only for the retirement and payment of the previous issue.

Sale of
bonds and
certificates
of indebted-
ness.

c. The council may prescribe the manner of the sale of all bonds or certificates of indebtedness and in no case shall either or any of them be sold or issued for a less sum than their par value and accrued interest; or upon less than 'four weeks' notice published in the official newspapers; they shall be approved by the corporation counsel as to form.

Investment
of sinking
fund.

d. All moneys, which shall be paid into the sinking fund, shall be invested as soon as practicable and may be invested in the bonds of this city, those of any town or county or city in this state, bonds of the United States, certificates of indebtedness of this city, or such securities as it is lawful for savings banks to invest in. The investment of the fund shall be made under the direction of the board of estimate and apportionment and in the name of the city. The securities shall be kept in a safe deposit

²⁹ Section 78 is new.

box, access to which shall be had only by the mayor and city clerk jointly, or in the absence of the mayor, the acting mayor and city clerk jointly; the keys shall be kept by the city clerk.

§ 79. Every tax or assessment for whatever purpose imposed or charged, upon any real estate within the city, by virtue of any of the provisions of this act, shall be a lien upon the real estate, within the city, upon which it is assessed from the time of filing of the roll containing the same with the clerk. Such liens shall be superior to any mortgage, judgment or other lien of any nature affecting said premises, excepting prior liens thereon for state and county taxes. If any such taxes or assessments shall be returned as unpaid by any officer authorized to collect the same, the common council may employ and direct an attorney, or the corporation counsel, or other proper officer, employed by the common council to advertise and sell such real estate in the manner hereafter provided. Whenever the common council shall order any parcel of land to be sold for any such tax, assessment, water rents or city lien, the order shall be made for all such taxes, assessments, water rents and city liens which may be then unpaid. Such sales shall be ordered by the common council at least once in two years, but no such sales shall be ordered in respect to any such liens unless the same have been in default of payment for at least three months.

Lien of
taxes on
real estate.

Sales for
unpaid
taxes.

§ 80.³⁰ On or before the fifteenth day of November next after any tax, assessments and liens shall have been imposed upon any real estate in said city, the city clerk shall make and deliver to the commissioner of assessment and taxation a transcript of all such taxes, assessments and liens which remain unpaid for a period of three months from the date of the warrant or order for their collection, and it shall be the duty of the commissioner of assessment and taxation, on or before the fifteenth day of December thereafter, to make and deliver to the common council a statement containing and showing the name of the owner or owners or occupant, so far as the same shall be known to the said commissioner of assessment and taxation, with a brief general description of the location and kind of property, and the boundaries of each parcel of such lands or other real property; and in case any such lands or property shall have been erroneously assessed, then it shall be the duty of such commissioner of assessment and taxation to make and include in such statement a corrected assessment at the same valuation as before, and such corrected assessment, and the amount of taxes levied upon said lands shall be as valid and effectual for all purposes as though they had originally been correct. Such certificate of taxes, assessments and liens shall be delivered by the common council to the city clerk who shall enter the same in a suitable book to be used for that purpose alone.

Statement
to common
council of
unpaid
taxes.

Correction
of erroneous
assessment.

§ 81.³¹ Before any such sale, an order shall be made by the common council which shall be entered at large in the records

Order of
sale for
unpaid
taxes.

³⁰ Previously amended by L. 1904, ch. 560; L. 1911, ch. 187.

³¹ Previously amended by L. 1904, ch. 560.

Conduct
of sale.

Terms of
sale.

Certificate
of sale.

of the city designating and directing the attorney or proper officer of the city to sell the properties on which taxes, assessments and liens remain unpaid as particularly described in the certificate of the city clerk and said commissioner as hereinbefore provided, a copy of which order shall be delivered to the officer so designated, who shall forthwith advertise the sale of said premises in the manner and for the time required in the case of sales of real estate on execution, and the sale shall be conducted in the same manner except as herein provided. The proceedings may be stopped at any time before the sale by any person, by paying the amount of the tax or assessment, with the interest allowed thereon by this act, and the expense of advertising. In making sales of real estate, under the provisions of this act, the attorney or officer making the same shall sell upon and exact terms of sales as follows: In case the tax or assessment, together with the interest thereon, and the proper expenses, and charges attending the sale, do not exceed the sum of five hundred dollars, then he shall require the purchaser, to pay at the close of the sale, a sum sufficient to pay said tax or assessment, interest, expense and charges. In case the tax or assessment, interest, expense and charges exceed five hundred dollars, he shall sell on such terms as the common council may direct; but in no case shall the purchaser be required to pay until after the time for the redemption of such real estate shall expire, according to the provisions of this title, more than sufficient to pay the tax or assessment, interest, expenses and charges; and the said terms of sale shall, in all cases, require the purchaser, when the purchase money is more than sufficient to pay such tax or assessment, interest, expenses and charges, to pay the balance of the purchase money to the city treasurer, within five days after the time for the redemption of such real estate shall expire, according to the provisions of this title. Said attorney or officer shall, in all cases, reduce his terms of sale to writing, and require the purchaser to subscribe the same; which terms of sale shall be annexed to the certificate of sale which is herein required to be filed with the city clerk, and shall be filed with the same. All sales in such cases shall be at public vendue, between the hours of nine o'clock in the morning and the setting of the sun, and shall be made to the highest bidder therefor. Three certificates of sale of each parcel of land so sold shall be made out, subscribed and acknowledged by said officer; one of which certificates shall be delivered to the purchaser, another filed in the city clerk's office, and another filed in the office of the clerk of the county, within twenty days after such sale. If there be two or more purchasers, a certificate shall be delivered to each. Such certificate shall contain a particular description of the premises sold, the price bid for each distinct lot or parcel, the whole consideration money paid, the name of the person or persons against whom such tax or assessment was made, the name of the purchaser, the particular tax or assessment for which the sale was made, and the time when such sale will

become absolute, and the purchaser entitled to a conveyance according to law. The officer making such sale shall, as nearly as possible, sell so much of the real estate only as the said tax or assessment shall have become a lien upon, as may be sufficient to raise the amount of said tax or assessment, interest and expenses, and which may be sold separately, without material injury to the entire premises. The certificate herein required to be filed in the county clerk's office shall be duly recorded by the said clerk, in the same manner as deeds are required by law to be recorded, and, being so recorded, shall have the same effect as against subsequent purchasers and incumbrances, as deeds and conveyances duly proved and recorded; and such certificate or record thereof, or a duly authenticated copy of such record, shall be received in all courts and places, as prima facie evidence of the facts therein stated. In indexing any certificate so to be recorded in his office, or any deed which may be given pursuant thereto, the said county clerk shall index the same as follows: By inserting, as grantor, the name of the person named in such certificate as the owner thereof, adding thereto the words "by the city of Middletown," and by inserting as grantee, the name of the person named in such certificate as the purchaser. The city clerk of the said city of Middletown shall provide and keep in his office a suitable book, in which he shall enter at length all such certificates of sale filed therein, and shall index all such certificates in the manner named above required.

Amount of
real estate
to be sold.

Recording
certificates;
effect,
evidence,
indexing.

The certificates of sale hereinbefore mentioned, shall be assignable by the purchaser or his legal representatives, and such assignment shall be acknowledged or proven in the manner required by law to entitle deeds of real estate to be recorded; and the common council may give to the assignee of any such certificate a conveyance of the real estate therein described, provided all assignments thereof shall have been duly recorded in the clerk's office of said county.

Certificates
assignable.

The purchase money for which any real estate may be sold, as hereinbefore provided, shall be paid to the treasurer of said city; and any balance of the same, after paying the tax or assessment, for which the sale may have been made, with the interest thereon, together with the costs and expenses of the sale, shall remain in the treasury of the said city and shall be paid out as in this section provided. The person against whom such tax or assessment was made, or any person claiming to be the owner or having any interest in the lands sold, or any person having any judgment or mortgage which was a lien upon the real estate sold, or claiming a right to said moneys, may apply to the supreme court for an order, directing the treasurer of said city to pay the balance of said moneys to him; and the said court may make an order directing said treasurer to pay said moneys to such person as it may ascertain is properly entitled thereto, and said treasurer shall pay over said moneys pursuant to any such order.

Disposition
of purchase
money.

§ 84. Repealed.

§ 85. Repealed.

§ 86. Repealed.

Laws applicable.

§ 91. All the provisions of law relating to the redemption of lands sold under executions, and which are not inconsistent with the provisions of this act, shall apply to the sales and redemption of lands, which may be sold for taxes or assessments, as provided in this act; and all payments which may be required to entitle other persons to redeem, according to the provisions of said law, may be made to the city treasurer.

Notice and deed to be recorded.

§ 94. It shall be the duty of the person serving such notice, or causing the same to be served, to file and record a copy of the notice served, together with the affidavit of the person making such service, who shall be at least eighteen years of age, in the office of the clerk of the county of Orange, with any deed which the purchaser may receive from the common council for the lands sold.

City may become purchaser at sale.

§ 95. The city of Middletown may become the purchaser at any sale which may be made under the provisions of this act, and in such case the said city shall be vested with the same rights as any other purchaser, but in no case shall the city at such sale bid a sum or become the purchaser for a greater amount than sufficient to pay the tax or assessment, with interest, including the costs and expenses of such sales, and in all cases of such sales the said city shall bid a sum sufficient to pay such tax or assessment, interest, cost and expenses. The mayor or other person designated by the common council shall attend all such sales and make such bid. Any sale made in violation of this provision shall be void.

§ 97. Repealed.

Exemptions.

§ 98. All property exempt from taxation by law, and all property belonging to the city, shall be exempt from state, county and city taxes.

Collection by action.

§ 99. Whenever any person or corporation shall refuse or neglect to pay any tax or assessment duly assessed, according to any of the provisions of this act, against any such person or corporation, the same may be collected by action in the name of the city, against such person or corporation, but such action shall not operate to release any lien upon property for such tax or assessment, until the judgment rendered in such suit shall have been fully satisfied.

Authority of common council to borrow money.

§ 101. Whenever any assessment or tax shall have been levied and confirmed by the said common council, it may borrow upon the credit of the city, in anticipation of the collection thereof a sum not exceeding one-half of said tax or assessment, but the said common council shall not have power to borrow, and are hereby expressly prohibited from borrowing any money on account of the city, except as herein provided, and all sums so borrowed, shall be paid within the fiscal year in which the same was borrowed, and if practicable from the tax so assessed for that year. The said council shall not create any pecuniary obligation whatever on the part of the city which shall not be payable within the year, and which cannot be discharged from the income of the same year, except as herein otherwise specifically

provided; but this prohibition shall not affect the provisions of this act before contained in regard to obligations for or respecting the expenditure of any sum raised by special tax. For the purpose of paying any judgment that may be recovered against the said city not otherwise provided for, the said common council is hereby authorized and empowered to borrow upon the credit of the city the whole amount of any such judgment or judgments with interest, and issue a certificate of indebtedness, or other obligation for such amount so borrowed, payable at such time as such common council may determine and designate; and the common council is hereby authorized and empowered to raise by tax at the next annual or special tax thereafter, the said amount so borrowed and interest, in addition to such annual or special tax the same as if said sum or sums so borrowed had been authorized by tax as provided by this act.

§ 102. Repealed.

§ 105. Repealed.

TITLE VI.

STREETS AND SEWERS AND THE IMPROVEMENT THEREOF, NUISANCES AND THE ABATEMENT THEREOF.

§ 106.³² The common council shall have power to determine the existence and direct the removal of a public nuisance, in any part of the city; and if the same be not removed in such time as the council shall direct, to cause the same to be removed at the expense of the city, and to cause buildings, trees and other incumbrances encroaching upon the streets or avenues to be removed; to prevent the erection or construction of any steps, platform, bay window, cellar door, area, descent into a cellar or basement, sign or any post or erection, or any projection from any building or otherwise, in, over or upon any street, or avenue in said city, and to cause the same to be removed.

Removal of nuisances, etc.

Whenever any such nuisance, encroachment or obstruction shall have been removed at the expense of the city, such expense shall be ascertained by the common council and entered in its minutes, after a hearing as provided in section one hundred and eight of this act, and together with the expenses of collection, shall be a lien upon the said lot from the time the expenses shall be incurred, and may be collected by action, in the name of the city, against the owner, and after demand of payment from the owner, and his neglect or refusal to pay such expense, by sale of the lot, in the manner hereinbefore provided for the sale of property, for taxes imposed for city purposes.

Collection of expense from owner.

§ 107.³³ The said common council shall have the power, and it shall be their duty, upon their own motion, or upon application as hereinafter provided:

Powers of common council relative to streets, public places, sewers, etc.

a. To lay out, open, make, amend, repair, alter, widen, straighten, extend, contract or discontinue streets, lanes, alleys, highways, walks, public squares, bridges, drains, culverts and

³² Previously amended by L. 1916, ch. 200.

³³ Previously amended by L. 1910, ch. 302; L. 1911, ch. 699; L. 1912, ch. 415.

sewers in said city. But no street, lane or highway in said city shall be discontinued without the written consent of all parties owning lands thereon.

b. To cause any street or streets, section or sections of any street or streets in said city, to be graded, leveled and paved and repaved, and sewers to be built or constructed, and fix or regulate the grade line of streets and sidewalks; and to cause curbs to be set and sags to be made, paved and guttered of such material as the common council may direct. And in the order directing the construction of a sewer or sewers, or such grading, leveling or paving (not including paving or repaving of gutters) they may, in their discretion, provide that a portion of the expense of such improvement, not exceeding one-half thereof, shall be paid out of the city treasury. But after any street, or section of a street, shall have been once graded, or be in process of grading, according to grade line fixed by order of the common council, the grade of the same street or section shall not be changed, except upon the written application of the persons owning a majority part of the property adjoining the same, and when a street has been once permanently improved for which any portion has been paid by the land owners thereon, no part of repaving, grading or improving the same a second or subsequent time shall be charged against the land owners on said street except their proportionate share of the general tax therefor.

c. To keep the streets clean and in good order and to pass ordinances requiring the same to be kept clean and in good order, and free from encroachment and injury, and to require the owners and occupants of houses, buildings or lots, to clean the snow and ice from the sidewalks and out of the gutters opposite their premises.

d. To require the owners of buildings and lots, on public streets, to make and maintain sidewalks opposite their premises and to prescribe and direct the materials out of which, and the manner in which such sidewalks shall be made, and the time within which they shall be completed, and to regulate the grade, width, shape and construction thereof.

e. To lay out, improve and ornament public parks and pleasure grounds, and to pass ordinances and regulations concerning their preservation and use.

f. To prevent and summarily remove all obstructions and encroachments in or upon the streets, sidewalks, highways, bridges and public grounds in said city.

g. The said common council shall have exclusive control of all the sewers in said city, and it shall not be lawful for any person to interfere with, enter or connect with any of the sewers in said city without having first obtained permission so to do from the commissioner of public works and all such connections shall be made under the supervision of the commissioner of public works and the said common council is hereby empowered to compel any and all owners or occupants of lands on the line of any such sewers, to enter and connect the drains from such lands into and

with such sewers, whenever the said common council shall deem it necessary for the public good, or as a sanitary measure, so to do; and the said common council is hereby authorized and empowered to enforce the observance of the provisions of this section, by ordinances imposing suitable penalties for the violation thereof. And the common council shall have power to enter upon any lands in said city, for the purpose of making surveys, and to construct upon the same any sewer or sewers deemed by them necessary and proper to be constructed, and to acquire the title to any lands or easements therein, for the purposes of such sewer or sewers.

§ 109. When the council shall, on its own motion, determine that it will be advisable to lay out, open, alter, widen, extend, contract, level, pave, curb, gutter or grade any street, or construct, flag or widen any sidewalk, or construct or rebuild any sewer, aqueduct or bridge, except as specified in section one hundred and ten of this act, or establish any public park, market or place, or install any approved or ornamental system of lighting as a local improvement or whenever persons owning at least one-third of the number of feet on the line of any such proposed improvement shall, by petition in writing, request the council to order the same, it shall cause a tentative estimate of the total expense to be made, and a map to be made by the city engineer showing its estimate of the probable area of assessment for the benefits of such proposed improvement, together with all other necessary maps, profiles or drawings, which maps and estimates shall be filed in the office of the clerk of the council at least five days before the day set for the hearing. It shall fix a time for a public hearing at which it will consider the advisability of said improvement, and hear all reasons for or against the same and direct notice to be published thereof.

Local improvement; determination for, notice, hearing.

The clerk of the council shall publish, twice in each week for two weeks previous to the said hearing, a notice which shall contain a description of the proposed improvement, the estimated expense thereof, and shall state that a map, showing the probable area of local assessment will be prepared and filed with him at least five days before said hearing for public inspection.

The council shall, at the time and place specified, hear all persons interested for or against the proposed improvement as to any question involved therein, and within two months after said hearing the council shall finally determine such proposition; and at any time before the completion of such improvement said council shall have the power to make any changes advantageous to the taxpayers of the city.

§ 110. When the board of health shall by resolution request the council to order the construction or rebuilding of a sewer through or in any part of the city designated in such resolution, and shall therein certify that the same is necessary as a sanitary measure and for the protection of the public health, the council shall order and direct said construction or rebuilding without giving notice of any hearing thereon. It shall, however, cause

Construction of sewer.

a notice of the said request and of its direction to be published once a week for two weeks, or at its option served personally upon the owners of all property along the line of the proposed improvement, and work upon the same shall not be commenced until thirty days after the first publication of the service of such notice.

§ 111. Repealed.

Change of
street
grade.

Expense of
subsequent
street im-
provement.

§ 112. After any street or section thereof shall have been once graded by direction of the council, the grade shall not be changed, except upon written application of persons owning a majority in frontage of the property adjoining the same; when a street has been once permanently improved, any portion of the expense of which improvement has been paid by the land owners thereon, no part of the expense of repaving, grading or improving the same at a subsequent time shall be charged against an owner on said street, excepting his proportionate share of the general tax therefor.

§ 112-a. Repealed.

§ 113. Repealed.

Ascertain-
ment of
expense of
sewer, etc.,
improve-
ments.

Limit of
assessment.

Assessment
of real
estate
benefited.

Notice.

Hearing;
action by
council.

§ 114. Whenever any of the foregoing improvements relating to sewers, et cetera, shall have been made, the council shall ascertain the total expense thereof, including the estimated interest which may accrue on any certificates of indebtedness issued or to be issued therefor and the sums paid or agreed to be paid for any interest in land that may be necessary and may fix and determine an amount to be paid by the city on account thereof which shall not exceed fifty per centum of the total expense; and shall fix a limit or district of assessment beyond which the assessments therefor shall not be extended; it shall enter in the minutes the amount of such expense, and a description of such limit or district, and shall then cause a warrant to be issued to the commissioner of assessment and taxation directing him to assess the said amounts, less, the part, if any, which it may have ordered to be paid from the city treasury, upon the real estate benefited by the said improvement. Said commissioner shall thereupon assess the amount specified in said warrant as therein directed and make a return to the council under his signature wherein he shall briefly describe by street and number as shown on the assessment map each parcel or real estate on and in respect of which any assessment is made, and the amount assessed upon the same. The clerk shall thereupon cause a notice to be published once a week for two weeks or served personally upon all parties interested, that such assessment has been made and filed, and that the council, at a regular meeting named in said notice, not less than fourteen days after the first publication thereof, will hear any objection which may be made to any assessment, and that in the meantime the report may be examined without expense by any person. At the time specified the council shall hear any objection made to said assessment, and shall review the same, and may adjourn the hearing from time to time, and alter, correct, modify or amend any assessment and confirm the same as so corrected.

§ 115. Repealed.

§ 116. Repealed.

§ 117. The council upon confirming any of the assessments referred to in this article, may provide in the resolution confirming the same that said assessments or any of them may be paid in five equal annual installments, to be collected in the manner provided in this act for the collection of taxes for city purposes. In such cases the first installment shall be due and payable on the day of the first publication of the notice provided for the collection of taxes for city purposes, and the remaining installments in one, two, three and four years therefrom, and shall bear interest at the rate of six per centum from the date of said first publication until they shall severally become due and payable and paid, providing, however, that the owner of any premises assessed may pay any or all installments remaining unpaid with accrued interest thereon whenever any installment shall become due, and that if any of said installments shall not be paid when due, the remaining installments shall thereupon immediately become due and payable and may be collected by the sale of such land or premises.

Assessments may be made payable in installments.

§ 118. Repealed.

§ 119.³⁴ a. In case any street which the common council shall cause to be paved, shall be used or occupied by a street surface railroad under any franchise granted by the city authorities, the expense of paving that portion of such street between its tracks, the rails of its tracks, and two feet in width outside of its tracks shall be borne by the company owning or operating such street surface railroad, but should the company owning or operating said street surface railroad neglect to do such paving after the expiration of the time within which such work shall be done as required by statute and the city authorities shall do the said paving, then and in that event the expense of such paving so made by said city shall be assessed by the commissioner of assessment and taxation of said city upon the property and franchises of said street surface railroad and said assessment shall be a lien on the property and franchises of said street surface railroad on which it is assessed and may be collected by the sale of such street surface railroad, its property and franchises and all the provisions of this act in relation to the collection of taxes for city purposes, and the sale of land for taxes, shall apply to the collection of such assessment and to sales therefor, and such assessment when collected shall be paid to the treasurer of the city.

Duty of street surface railroad to pave.

Procedure on neglect of railroad company.

b. The said common council at the time of the confirmation of the said assessment against said street surface railroad may by resolution determine, and the common council shall have power to so determine, that the said assessment against said street surface railroad may be paid in five equal annual installments, all of which shall be collected in the manner herein provided for the collection of taxes for city purposes. If the common council shall determine to permit the payment of said assessment to be

Payment of assessment against street railroad in installments.

³⁴ Previously amended by L. 1910, ch. 302; L. 1911, ch. 699; L. 1912, ch. 415.

made in installments, the first installment shall be due and payable on the date of the first publication of the notice provided for the collection of taxes for city purposes by the fifth title of this act and the remaining installments in one, two, three and four years from the date of said first publication of said notice, and shall bear interest at the rate of six per centum per annum from the date of said first publication of said notice until said installments shall severally become due and payable and paid with the privilege of paying any or all installments remaining unpaid with accrued interest thereon whenever any one of said installments become due, and if any said installments, including the first, shall not be paid when due, the remaining installments of the amount so assessed shall immediately become due and payable and may be collected by the sale of said street surface railroad and its franchises as hereinbefore provided.

Council may direct street railroad to repair; action in case of neglect.

c. The council may, at any time it may deem advisable, direct the repaving and repair by a street surface railroad of that portion of any street occupied by it between its tracks, the rails of its tracks, and two feet in width outside of its tracks, and the manner in which said work shall be done, and it shall be done as so directed under the supervision of the commissioner of public works. In case of the failure of such corporation to do such work after the expiration of thirty days' notice to do so, the council shall direct the same to be done by such commissioner and the expense thereof shall be ascertained and fixed as provided for in section one hundred and seventeen of this act, and shall be charged upon and become a lien upon the property and franchises of said railroad.

Borrowing money in anticipation of payment of installments.

d. Whenever the common council shall at the time of the confirmation of any assessment determine that the same may be divided into five equal annual installments as herein provided, the said common council may authorize the issue of bonds or certificates of indebtedness to an amount not exceeding four-fifths of the total amount of such assessment, which said bonds or certificates of indebtedness shall be payable one-fourth in one year; one-fourth in two years; one-fourth in three years; and one-fourth in four years from and after the first day of the second calendar month succeeding the said confirmation of said assessment-roll and shall be of such denomination or denominations and shall bear interest at such rate, not exceeding six per centum, as the said common council may determine and shall be sold at not less than par, and which said bonds or certificates of indebtedness shall be paid as they become due by the city treasurer from the funds received by him from the collection of such assessments.

Payment of bonds or certificates of indebtedness.

e. The proceeds from the collection of the installments as herein provided shall constitute a fund for the purpose of paying the bonds or certificates of indebtedness issued as herein provided, but if sufficient money shall not have been realized upon any installments to pay the said bonds or certificates of indebtedness when the same shall become due and payable the common council shall temporarily borrow on the credit of the city a suf-

ficient sum to pay the same, and all moneys hereafter realized on account of said assessment-roll or from sales for the nonpayment of the said assessments shall be used and are hereby pledged for the payment of the amount so borrowed and for the payment of said bonds or certificates of indebtedness.

§ 120. Repealed.

§ 122.³⁵ To the end that the said city of Middletown may be provided with and have sufficient and proper drainage and sewerage, the said common council is hereby authorized and empowered to agree for and to purchase and take conveyances for, in the name of said city, any real estate and right of way, over any real estate, and the right to use any stream running through said city which may be a tributary of the stream heretofore taken, and now used and possessed by said city, known as Monhagen creek, or any part of such tributaries, for the purposes of such drainage and sewerage to any suitable and proper place and for sewerage and garbage disposal plants and works; and in case said common council does not agree for the purchase of such real estate, or rights of way, or rights to use such streams for the purposes aforesaid, from any of the owners of such real estate, or of the lands through or along which said streams run, the said common council may acquire the title and right to the same or any part thereof, for the purposes aforesaid, as provided in this act.

Purchase of real property for drainage and sewerage purposes.

§ 123. In case said common council shall not agree with any owner or owners, respecting any lands or rights which they may desire to acquire for the purposes aforesaid, or with the owner or owners of any lands through or along which the aforesaid streams run, for the right to use the same for such purposes, then said common council shall cause a survey and map to be made of the lands intended to be taken or entered upon for said purposes, including the lands through or along which said streams pass, by which the land of each owner or occupant thereof intended to be taken or used, or through or along which said streams pass, shall be properly designated, which map shall be duly signed by the surveyor making the same and by the mayor of said city, and shall thereupon be duly filed in the office of the clerk of Orange county. Any of the members of said common council, and any of the officers, agents and employees or servants thereof, may enter upon any lands for the purpose of making such examination as may be proper, with a view to such drainage and sewerage, and making said survey and map, doing no unnecessary damage, however, thereto. In case of such failure to agree or in case such agreement cannot be made by reason of the disability of any of the owners of said property, the common council may direct that such property be acquired by proceedings instituted for the condemnation thereof in the manner provided by the condemnation law for the condemnation of real property, and the provisions of this act relative to title pending condemnation shall apply.

Condemnation proceedings.

³⁵ Previously amended by L. 1911, ch. 699.

§ 124. Repealed.

Tax to
pay for
lands, etc.

§ 125. Any sum of money necessary to pay for said lands, rights or awards, and the cost of said improvement, including the necessary expenses incurred by said common council in connection therewith, shall be raised by tax, to be assessed upon all the real and personal property in said city, according to the valuation of the city assessment-roll of the current year, which said tax shall be assessed by the said common council at some meeting thereof. The said tax or assessment shall be raised and collected in the same manner that special taxes are directed to be raised and collected under the provisions of title five of this act, and as if the same had been voted as a special tax by the electors of said city, at an election held pursuant to this act; and the provisions of the sections of said title five relating to taxes or assessments, shall be equally applicable to the tax which said common council are herein authorized to assess at some meeting thereof as aforesaid.

§ 126. Repealed.

TITLE VII.

POLICE DEPARTMENT.

Police
officers;
appoint-
ment, num-
ber, qualifi-
cations.

Chief of
police.

Powers and
duties of
officers.

§ 127. The common council of said city shall appoint such number of proper persons to be police officers for said city as it may deem necessary and proper, not to exceed one police officer for each one thousand of the inhabitants of said city as shown by the last preceding state census, but no person shall be appointed to membership in the police force, or shall continue to hold membership therein, who is not a citizen of the United States, or who has ever been convicted of a crime, or who cannot understandingly read and write in the English language, or who shall not have resided in the state during one year next preceding the appointment. The common council shall select from the police officers so appointed by it one who shall be the chief of the police department of said city and said common council shall also select from the police officers so appointed by it two who shall be the lieutenants of the police department of said city. The said police officers shall possess the exclusive power of serving all criminal and other process issued by the recorder, or acting recorder or mayor, except in such civil actions or proceedings as may be commenced before the recorder, pursuant to this act, in which they shall have concurrent power with the civil constables of said city; and they shall perform all acts in relation to criminal offenses, which police officers or constables are authorized to perform. It shall be the duty of said police officers to attend at the recorder's office at all reasonable hours of the day; to obey at all times, all process of the recorder and all directions of the mayor or common council, duly issued or given for the preservation of the public peace and order, and to make arrests whenever they shall be called upon or sent by the mayor, recorder or common council, to keep the public peace, or arrest any person charged

with any offense. In any case of the continued absence, detention or inability to act of all of said officers, the mayor, recorder or acting recorder may designate any person by appointment, in writing, or by directing the process to be served by such person, to serve any process issued by either of such officers. Every person so appointed shall possess all the powers of a police officer under this act, in relation to the particular process of service for which he is appointed, or which he is directed to serve, if designated by separate appointment.

Appointment of person to serve process.

§ 128. All appointments to membership on the police force shall be made pursuant to the civil service laws of the state, and in case of any vacancy in the police force, the same shall be filled from the list of persons eligible to appointment under such laws, but no person shall hereafter be eligible to appointment on the police force in said city who is over the age of thirty years; and no member of the police department shall continue to hold his position or office after he has reached the age of sixty years unless he be continued from year to year thereafter by resolution of the common council, but the common council shall have no power to continue such officer or member of the police department in his office or position after he shall have reached the age of sixty-five years. There shall be no fixed term of office for police officers, and such officers shall, subject to the limitation as to age set forth in this section, continue in office during good behavior and efficiency, being always subject to removal for cause after opportunity to be heard.

Police officers; application of civil service laws, terms.

§ 129. The mayor of said city shall be authorized, whenever the public interest shall require, to appoint special police officers not exceeding twenty in number, except as herein otherwise provided, who shall hold their office by virtue of such appointment, for such period as the mayor shall direct, not exceeding one month under any one appointment. Such special officers shall forthwith take the oath of office, and shall thereupon become vested with all the powers, and shall discharge all the duties of police officers under this act, and in pursuance of the statutes of this state, as they may be directed by the mayor or other competent authority. The mayor shall report all such appointments to the common council at its first meeting thereafter.

Special police officers.

§ 130. The members of the police force, in criminal matters, shall have all the powers of constables under the general laws of the state; and they shall also have power and it shall be their duty to arrest any person by them found violating any of the penal ordinances of the city or laws of the state, and to take such person before the recorder, to be dealt with in the same manner as if such person had been arrested upon a warrant theretofore duly issued by such magistrate. It shall be their duty to report violations of law and ordinances, coming to their knowledge in any way, under regulations to be made by the police department. They shall also have in every part of the state in criminal matters all the powers of constables; and any warrant for search or arrest issued by any magistrate of the state may be executed by them in any part of the state, according to the tenor thereof and

Police officers; powers in criminal matters.

all the provisions of the code of criminal procedure apply to arrests made as herein authorized.

Chief of
police;
duties.

§ 132. The chief of police shall be the executive head of the uniformed police and perform such duties as may be prescribed by the mayor. It shall be his duty, subject to the orders and directions of the mayor, to have charge and control of the administration and discipline of the police department, the city jail, and police headquarters and to furnish all necessary supplies therefor, under the direction of the board of estimate and apportionment.

He shall obey all orders of the board of health. He shall enforce all ordinances and regulations enacted by the common council, except as otherwise therein or in this charter provided.

It is his duty to see that all rules and regulations of the police department are enforced and carried out, and to temporarily commit any person charged with a criminal offense and to perform such other duties not inconsistent with the provisions of this act.

Charges
against
police
officers.

Trials.

Punish-
ment.

§ 133. If a charge is made by any person against any member of the police force that he is incompetent, or has been guilty of neglect of duty; misconduct in office or conduct unbecoming a police officer, the charge must be put in writing and a copy thereof served on the accused officer. It shall then be the duty of the mayor to hear, try and determine the charge. The accused officer shall have the right to be present at his trial, and to be heard in person and by counsel and give and furnish evidence in his defense. All trials shall be open to the public. The mayor shall have power to issue subpoenas, to compel the attendance of witnesses upon any proceeding authorized by the rules and regulations of the police department, and any person duly served with a subpoena is bound to attend in obedience to the command thereof; and the mayor shall have the same authority to enforce the subpoena, and to punish for disobedience thereof as is possessed by justices of the peace in like cases. If the accused officer shall be found guilty of the charge made against him, the mayor may order his suspension from pay for some definite time or impose upon him a fine not exceeding one hundred dollars or reduce his grade or dismiss him from the police force or subject him to any other discipline prescribed by the rules of the police department which is not inconsistent with the provisions of this act, or with the laws of the state. The decision of the mayor shall be final.

Powers of
mayor in
case of
riot.

§ 134. In case of riot or insurrection, the mayor may take command of the whole police force, including the chief executive officer thereof, and he may for the occasion appoint and commission as many special policemen as he may deem necessary who shall have all the powers of regular members of the police force; and in case of riot or other extraordinary emergency he may order out the firemen and state military organization having its headquarters in the city to preserve the peace and protect life and property.

§ 135. No member of the police department is liable to military or jury duty, nor shall he hold any other office or be employed in any other department of the city government, except as deputy to the city clerk in the issuance of licenses. Police officers; exemptions, not to hold other office.

§ 136. Repealed.

§ 137. No member of the police force shall be a member of or delegate to any political convention, nor shall he be present at any such convention except in the performance of duty relating to his position as such officer. Any violation of these provisions shall work a forfeiture of his office or position, and it shall be the duty of the mayor to dismiss him from his position and record the cause of such dismissal. Police officers; not to take part in political convention.

§ 139. Repealed.

§ 140. Repealed.

§ 141. Repealed.

§ 149. Repealed.

§ 150. The said police officers shall not be entitled to receive for their own use, any fees for services performed by them of a criminal nature, issued by the mayor or recorder, or any justice of the peace acting as recorder under this act; but each one shall receive in addition to his salary the usual mileage, in all cases of felonies, in which he shall have traveled more than two miles to perform the services. Each one of said officers shall keep a book, in which shall be entered all business done by him, and shall make out his account of all such business in cases of felonies against the county of Orange, duly verified by him, which shall be audited, and shall annually at the time of the presentation of claims against the county make out an account of all charges made by him against the county for services rendered in case of felonies duly verified, and present the same to the board of supervisors of the county of Orange, which board shall audit and levy the same as other county charges, and hand the same over to the treasurer of the city of Middletown, as moneys belonging to the said city. The salary of said police officers and their mileage fees, allowed by this section, shall be audited and paid as other charges against said city. Police officers; fees, salary, mileage.

§ 151. Repealed.

TITLE VIII.

PREVENTION AND EXTINGUISHMENT OF FIRES.

§ 154. The common council shall have power by ordinance, to regulate the construction of chimneys and compel the sweeping thereof to prevent a dangerous construction or condition of chimneys, fire-places, hearth-stones, stove-pipes, ovens, boilers and apparatus used in any building or manufactory, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires, and to regulate and prevent the use of fire-works and fire-arms within the city limits, to compel the owners and occupants of houses and other buildings Regulations for prevention and extinguishment of fires.

to have scuttles in roofs, and stairs and ladders leading to the same; to prohibit or regulate the keeping and conveying of gunpowder and other dangerous material, and the use of candles and lights in barns, stables and other buildings; also to prohibit or regulate the keeping and conveying of petroleum, earth or rock oil, benzole, benzine, naphtha, kerosene, camphene, or burning fluid of any kind or other dangerous material; and to provide for the inspection of the same by an inspector appointed by them; and in case of violation of the ordinances regulating the same, to provide for the forfeiture thereof, or for such penalties as by ordinance the common council may impose; to authorize the mayor, aldermen, or other officers of said city to enter upon and inspect any place or places for the purpose of ascertaining whether the same is or are in a safe condition, and if not, to direct or cause the same to be made so; to keep away from the vicinity of any fire all idle and suspicious persons, to compel all officers of said city and other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, to require all such further and other acts to be done, and to regulate or prohibit the doing of all such further or other acts as they may deem proper to prevent the occurrence, and to provide for the extinguishment of fires in said city, designating such portions of said city as they may deem proper within which no building in whole or in part of wood or other combustible material shall be erected, repaired, reroofed, made larger or removed; to remove or provide for a removal thereof, if so erected, repaired, rebuilt, reroofed, made larger or removed. The common council shall also have the power to raze or demolish any building or erection which by reason of fire or any other cause may become dangerous to human life or health or tend to extend conflagration.

§ 155. Repealed.

§ 156. Repealed.

Fire apparatus.

Chief engineer, assistants and firemen.

§ 157. The common council shall purchase and procure fire engines and other apparatus used for the extinguishment of fires, and provide fit and secure engine houses and other places for keeping and preserving the same, whenever authorized by a vote of the inhabitants of said city, as prescribed by this act, or whenever there is any unappropriated funds belonging to said city, and shall have the charge and control of the same, and shall have power to organize fire, hook and ladder, and hose companies; to prescribe the duties of the chief engineer and two assistants, clerk and treasurer, and to appoint a competent number of able and respected inhabitants of said city firemen; to take the care and management of the engines and other apparatus and implements used or provided for the extinguishing of fires; to prescribe the duties of firemen, and to make rules and regulations for their government, and to impose such reasonable fines and forfeiture upon said firemen, for violation of the same, as the said council may deem proper; and for incapacity, neglect of duty, or misconduct, to remove them and appoint others in their places.

§ 158. The engineers of the fire department, and all firemen, of the city, shall be exempt from serving on juries in all cases, in the militia, except in case of war, insurrection or invasion. The name of each person appointed to any of the said offices or posts shall be registered with the city clerk, and the evidence to entitle him to any exemption provided in this section, shall be the certificate of the clerk, made within the year in which the exemption is claimed.

Firemen;
exemptions.

TITLE IX.

ACQUISITION OF REAL PROPERTY.

§ 116.³⁶ When the council shall by resolution determine that real property or any interest therein located within or without said city is necessary for a public purpose, or the making of a public improvement, the board of estimate and apportionment shall endeavor to purchase said real property or interest therein, at an agreed price, subject to the approval of the council. In case of agreement and approval the property may then be purchased and title taken in the name of the city.

Acquisition
of real
property;
by purchase.

§ 161.³⁷ In case said board cannot agree with the owners of any property or easement as to price, or in case said agreement cannot be made by reason of the disability of any of the owners of said property, the council may direct that such property be acquired by proceedings instituted for the condemnation thereof in the manner provided by law for the condemnation of real property, and the fact that the council shall have, by resolution, determined that the taking of the property or easement sought to be condemned is necessary for the public use, shall, in the absence of fraud or bad faith, be conclusive upon the question of such necessity in said proceedings.

By condemnation
proceedings.

§ 162.³⁸ If the council by resolution shall so declare, the title to the real property to be acquired by condemnation shall vest in the city upon the qualification of the commissioners appointed to condemn the same, and it may thereupon enter upon and take possession of the property, and the commissioners, in making their award, shall, in that case, add interest to their award at the rate of six per centum per annum from the date of their qualification to the date of the making of said award.

Same; title
when to
vest.

§ 163.³⁹ Upon the confirmation of the report of the commissioners, the corporation counsel shall cause a copy thereof and of the order of confirmation, duly certified, to be filed in the office of the city clerk, and if an appeal be taken therefrom, he shall also cause to be so filed a copy of each order of an appellate court with regard to the said proceedings.

Copy of
report of
commissioners to
be filed.

§ 164.⁴⁰ When a residue may be left, of any lot or property necessary to be taken for an improvement, the commissioners may,

Acquisition
of residue
of lot
taken.

³⁶ Section 160 evidently intended. This section is new.

³⁷ Section 161 is new.

³⁸ Section 162 is new.

³⁹ Section 163 is new.

⁴⁰ Section 164 is new.

Sale.

in a case where injustice would otherwise be done and with the consent in writing of the owner, include the whole or any part of such residue in their report, together with a description of the same, and estimate separately the value thereof. Every such residue, which shall be so included, shall, upon the confirmation of the report and the payment of the amount at which the same shall be valued therein, vest in fee simple in the city and the council may sell the same, at a price not less than the sum at which it shall have been so valued, to the owner of adjacent lands; and if such owner shall not, upon reasonable notice to be determined by the council, elect to take the same at such price, it shall be sold at public auction, upon such notice as the council may prescribe to the highest bidder. In case the sale shall be for less than such estimated value, the deficiency shall be deemed a part of the general expense arising from the improvement, and shall be included in the estimate and assessment of the expense thereof, and upon such sale the proceeds shall be credited to each of the persons assessed in proportion to the amount of the respective assessment against each.

TITLE X.

WATER DEPARTMENT.

Rules and regulations for water works and water.

§ 176.⁴¹ The board of estimate and apportionment shall make such rules and regulations for the preservation, management and protection of the water works and the use and control of the water, as may be deemed advisable, and prescribe the penalty for the violation thereof, which penalty, if not paid when imposed, shall constitute a lien upon the premises in like manner as unpaid water rents, and which, when ratified and approved by the common council, shall have the same force and effect as any law or ordinance by it enacted, and may alter or amend the same with the approval of the common council.

Water rents.

§ 177.⁴² The said board of estimate and apportionment by and with the consent of the common council, shall establish a scale of annual rents to be charged and paid semi-annually, on May first and November first, by the owners and occupants of all buildings which shall be situated on lots adjoining any street or avenue in said city, in which the distributing pipes are or may be laid, and from which they can be supplied with water, to be called water-rents, and to be apportioned to the different classes of buildings in said city, in reference to their own dimensions, value, exposure to fire, ordinary uses for dwellings, stores, shops, private stables and other common purposes; number of families or occupants, or consumption of water, as near as may be practicable, also a scale of rates to be charged and paid monthly for water supplied through meters and the rates to be charged and paid for water used in the erection of new buildings, which amounts shall be paid on demand by the owner or

⁴¹ Section 176 is new.

⁴² Previously amended by L. 1911, ch. 699.

occupant of the property upon which such water shall be consumed, and, from time to time, to alter, modify, amend, increase or diminish such rents in said scale, and extend it to other descriptions of buildings, establishments or uses.

§ 178.⁴³ The commissioner of public works shall determine the amount of water used by hotels, factories, stables, breweries, mills, foundries, and other buildings, establishments and trades, which consume extra quantities of water, and shall have power to attach a meter to any premises when deemed advisable and all expenses of meters, their connections, setting, repairing and all water rates, including schedule and meter rates, and all other lawful charges for city water supplied in any manner shall be a charge against the property where such water is supplied.

Meters where extra quantities of water used.

§ 179.⁴⁴ All water rents thus determined, together with all such expenses and charges, shall be payable to the city clerk as collector, and shall constitute a lien on the property upon which such water shall be used in like manner as city taxes. All moneys so collected shall be credited to the water department fund.

Water rents; payment, etc.

§ 180.⁴⁵ If the said city clerk and collector shall be unable to collect any of such water rents, he shall make return thereof, under oath, to the common council; and the commissioner of public works thereupon and thereafter said council shall have power to sue for and collect such rents, together with ten per centum thereon in addition thereto, from the persons against whom the same shall be charged in said assessment-roll as aforesaid. And the said water rents shall be liens upon the property in respect to which they are assessed, and shall be filed in the office of the city clerk and may be collected by a sale of such property in the manner hereinbefore provided for the collection of taxes and assessments for city purposes, and the said commissioner may also cut off the supply of water leading to the premises upon which such water rents are assessed, and prevent the further use of water from the water works of said city, until said rents, with interest and fees, be fully paid, and the charge to be fixed by the board of estimate and apportionment for shutting off and turning on the water to the occupant or occupants of said premises.

Water rents; collection by suit or sale of property.

§ 181.⁴⁶ The supply pipes leading from the buildings to the distributing pipes shall be inserted and kept in repair at the expense of the owners or occupants of the buildings, and shall not be inserted or connected with the main pipes until a permit therefor shall be obtained from the commissioner of public works or other person designated by him and all such connecting or supply pipes or fixtures shall be constructed under or according to the direction of said commissioner or his agent. The commissioner and every other person by him delegated for the purpose shall have free access at all reasonable hours to all parts of any building or premises into which the city water

Pipes leading from buildings.

Duties of commissioner of public works.

⁴³ Section 178 is new.

⁴⁴ Section 179 is new.

⁴⁵ Previously amended by L. 1911, ch. 699.

is delivered and consumed. He shall keep the property and works belonging to the city, and used and provided for the purpose of furnishing a supply of water, in good order and repair, and see that all proper measures are taken to preserve the purity of the water and a sufficient supply thereof. He shall, whenever the common council deems it advisable, cause the line of water pipes connected with such water works to be laid down and extended through any of the public streets, lanes or alleys, in said city, and shall superintend the laying down of the same. He shall keep a correct account of the expenses thereof, which shall be paid by the treasurer on the order of the said council, from the water department fund.

Frontage
tax on
property
not paying
water
rents.

§ 182.⁴⁵ The common council is hereby authorized to levy and collect a frontage tax in each and every year on all unimproved real estate lying along or fronting on either side of any street or alley in which the water main is now laid, or may be hereafter laid, except in case of property along such mains using such water for which a rate is otherwise charged or paid, and also excepting corner lots where water pipes are laid or hereafter laid in both streets, in which cases the frontage tax shall be assessed only upon one street; said frontage tax shall be fixed by said common council, not to exceed in any one year two cents for each foot frontage, or fraction thereof, of any tracts or parcels of land lying along or fronting on either side of any such street or alley. The common council is hereby given power to levy a rate of taxation upon any improved property not using the city water where water mains are laid in the street as may in its judgment be deemed equitable and proper on account of the benefits such properties may derive from their protection against fire. Any tax so imposed or assessed upon any premises in said city shall become a lien upon such premises and bind the same in the same manner, and shall be enforced and collected in the same manner as other city taxes are now imposed and collected; and the moneys so collected shall be credited by the treasurer of said city to the said water department fund.

Application
of receipts
for water
rents.

§ 183. The entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the ordinary expenses or* repairs of said water works and of extending the same, and salaries of officers and employees, shall be applied to the payment of the interest on the debt contracted for furnishing the village or city of Middletown with water, and the interest on any debt that may be contracted under the provisions of this act, the balance if any, may be set apart as a sinking fund to retire any outstanding bonds.

Tax levy
when re-
ceipts in-
sufficient to
pay interest
or debt.

§ 184. In case the entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the ordinary expenses and repairs of the said works, and of extending the same, and salaries of officers and employees, shall not be sufficient in any one or more years to pay the interest on

* So in original. [Evidently should be "of."]

* Previously amended by L. 1911, ch. 699.

the said debt; the common council shall cause to be levied and collected from and against all the taxable property in said city, at the same time and in the same manner as other expenses of the said city are assessed, levied and collected, such sum or sums of money as said council shall determine to be necessary to make good such deficiencies, and the sum shall be applied to the payment of such interest, and expenses.

§ 185. Repealed.

§ 186.⁴⁶ The common council and the commissioner of public works and their authorized agents or employees, are authorized to enter on any land or water for the purpose of making surveys of such property as they may deem necessary, for the enlargement, alteration or improvement of the water works.

Right of entry on lands.

§ 187.⁴⁶ The common council is hereby authorized to make agreement with any owner or owners of lands, lakes, ponds, springs or streams of water or other property which may be required for the enlargement, alteration or improvement of the water works of said city, or which may be injuriously affected thereby, as to the price to be paid to such owner or owners, and may buy in the name of the city of Middletown any such lands, lakes, ponds, springs or streams of water or other property which may be so required, or any easement in any lands, for the purposes aforesaid, and any such acquisition shall be held by the said city for the purposes of the water works.

Agreements for purchase of land, etc., for water works.

§ 188.⁴⁶ In case of disagreement between said council and the owner or owners of any lands, lakes, ponds, springs, easements, or streams of water or other property which may now or hereafter be required for the enlargement, alteration or improvement of said water works, as to the amount of compensation to be paid to such owner or owners, or in case any such owner shall be an infant, or insane, or absent from the state, or the owner of an uncertain or contingent interest, or in case of any other disability on the part of the owners the common council may direct that such property or easement be acquired by proceedings instituted for the condemnation thereof under the condemnation law, and the provisions of this act relating to title pending condemnation shall apply.

Condemnation proceedings.

§ 189. Repealed.

§ 192.⁴⁶ It shall be lawful for the common council to raise by loan, for the purpose of such enlargement, alteration and improvement of the water works of said city, as provided in this act, from time to time, upon bonds of the city of Middletown, such amounts as occasion may require, which bonds shall be in the form of and disposed of as those referred to in section seventy-eight of this act.

Bond issues for water works improvements.

§ 193. The common council is hereby authorized to borrow money and issue new bonds from time to time as provided in this act as the water bonds heretofore issued by the village or city of Middletown, or which may hereafter be issued by said city pursuant to this act shall respectively mature and fall

Refunding water bonds.

* Previously amended by L. 1911, ch. 690.

due, to take up and replace, or as substitutes for said water bonds, provided said city has no further funds on hand when said bonds shall from time to time mature sufficient to pay the same.

Tax for
sinking
fund.

§ 194. For the purpose of creating and continuing a sinking fund for the payment of the water bonds heretofore issued by the village or city of Middletown, and also for the payment of the bonds herein authorized to be issued the common council of said city is hereby further authorized, empowered and required to impose, levy and assess upon the taxable property of said city a direct annual tax of two thousand dollars in each and every year hereafter, until a sufficient sum be thus raised to pay the entire principal of such bonded indebtedness of said village, and of said city, heretofore, and herein authorized.

§ 195. Repealed.

Application
of sinking
fund.

§ 196.⁴⁶ It shall be the duty of the board of estimate and apportionment to see that the proceeds of such annual tax and all moneys paid into the sinking fund are applied as soon as practicable to the payment and redemption of the water bonds of the city, and if there are no bonds on which payment can be made, it shall invest the same as provided in this act.

§ 198. Repealed.

§ 199. Repealed.

§ 200. Repealed.

Use of
highways
in certain
towns for
conduits.

§ 201.⁴⁶ The said commissioner of public works, by order of the common council and all persons acting under his authority, shall have the right to use the ground or soil under any street, highway or road within the town of Wallkill and adjoining towns, for the purpose of introducing water into and through any portion of the city of Middletown, on condition that he shall cause the surface of said street, highway or road to be relaid and restored to its usual state, and all damages done thereto to be repaired.

TITLE XI.

COMMISSIONERS OF CHARITIES.

Commis-
sioner of
charities;
qualifica-
tions.

§ 204.⁴⁷ The commissioner of charities shall be a graduate of some school of philanthropy, or shall possess a training or equipment which, in the judgment of the mayor and common council, is equivalent thereto, preferably a woman, who shall be under the supervision of the mayor and common council.

Powers and
duties.

§ 205.⁴⁷ The commissioner of charities shall have the general care, management and supervision of the charities, hospitals and charitable institutions of any nature, the control or government of which belongs to or is entrusted with the city and such institutions as shall receive from the commissioner or the city public moneys in support of the poor or indigent or the charities of the city; he shall institute and prosecute all actions and proceedings authorized by law to compel any persons liable for the care,

⁴⁶ Previously amended by L. 1911, ch. 699.

⁴⁷ Previously amended by L. 1916, ch. 200.

maintenance, education or support of any destitute or dependent person or one liable to become dependent, to contribute thereto, and to indemnify the city against any expenditure on account thereof; and shall prosecute all bonds, undertakings or recognizances given for purposes mentioned in this section or relating thereto. He shall investigate fully the circumstances of all persons alleged to be destitute, or without proper means of support, or without proper guardianship, or who are in danger of becoming or are a public burden in any respect, and also the circumstances of their relatives or other person, whose duty it is to relieve or maintain them, or contribute to their support; and shall investigate and as far as possible ascertain what aid or assistance, if any, such persons have received or are receiving from any individual or any charitable or philanthropic organization. He shall have the power to examine under oath any person applying for relief, and may take proof and testimony in respect of his right thereto, or any matter pertaining to the duties of his office. He shall make inquiries and as far as possible ascertain all parties and persons in the said city or vicinity desiring to engage laborers or employees, and shall keep a register thereof, and so far as practicable assist all persons applying to him for aid and who are alleged to be destitute or without proper means of support or without proper guardianship or who are in danger of becoming, or are, a public burden in any respect, in finding employment. The said commissioner shall make inquiries and investigations concerning all charitable and philanthropic organizations engaged in charitable and philanthropic work in said city and making appeals for public funds. He shall keep books or records in which shall be entered the name, age, sex and native country of every person who shall be relieved or supported by him, together with a statement of the time, place and nature of such relief and of the causes which shall have operated to render such relief necessary, so far as can be ascertained. He shall also enter upon such books or records a statement of the name and age, and of the names and residence of the parents of every child placed by him in a family, with the name and address of the family with whom such child is placed, and the occupation of the head of the family. He shall also keep a record of all moneys received by him, when and from whom and for what account and of all moneys paid out by him, when and to whom and the purpose of such expenditure; also a statement of all debts contracted by him, the names of the persons with whom such debts were contracted, the amount and consideration of each item, the names of the persons for whose benefit the debts were contracted, and the time and manner of payment. He shall also furnish each month to the mayor and common council a verified statement, comprising the above items, and showing whatever moneys may be in his hands. No bill, claim or account for care, support, supplies or attendance furnished a poor person by order of the commissioner shall be audited or allowed, unless such bill, claim or account be veri-

Books or
records.

Audit of
accounts.

Books open to public. fled by the claimant, to the effect that such care, support, supplies or attendance have been actually furnished for such poor persons; that such poor persons have actually received the same, and that the prices charged therefor are reasonable and not above the usual market rates. All of the books of accounts and expenditures of the said commissioner shall at all times be open to inspection by the public and to all persons and organizations engaged in philanthropic or charitable work in said city, and the said commissioner shall from time to time upon request furnish to any such person or organization any information in his possession which said commissioner shall deem proper which will assist such person or organization in carrying on such work.

To have powers and duties of overseers of poor. The commissioner of charities shall, in addition thereto, possess all the powers and authority and perform all the duties and be subject to all the liabilities and obligations of an overseer of the poor in the several towns in the county of Orange.

Disposition of moneys received. All moneys received in any suit, action or proceeding or otherwise paid to or received by said commissioner by virtue of his office shall be deposited by him with the city clerk.

City owner of supplies for poor. § 206. The city shall continue to be the owner of supplies, furnished to any poor person or applicant for relief, until the same are consumed. If any person to whom the same shall be furnished shall sell or exchange the same for money or intoxicating liquors, or in any way dispose of the same other than in the manner directed, he shall be deemed guilty of a misdemeanor.

Saving clause. § 207. Nothing contained in this title shall be deemed to make the city liable for the support or relief of a poor person when it is not otherwise so liable.

City physician. § 208. The city physician shall perform such duties with respect to giving medical attention and care to the poor of the city as the commissioner of charities may direct, or as the council may by ordinance require. Amounts incurred or paid by him for medicine used in the performance of such duties, shall be audited and paid only in the manner provided by this act.

§ 209. Repealed.

TITLE XII.

BOARD OF HEALTH.

Board of health. § 210.⁴⁸ The board of health of said city shall be created and its members appointed for the several terms as provided by the statutes and laws of this state now in force as to cities as to the appointment of such boards, except such cities as are expressly exempt from the operations of such statutes and laws. No member of the board of health shall receive any compensation.

Powers. § 211. The board of health shall have power and it shall be its duty, subject to the provisions of this act:

a. To enforce the public health law within the city;

b. To abate all nuisances detrimental to the public health or dangerous to human life, by action at law or in equity in the name of the city, or without action as a natural person may do;

⁴⁸ Previously amended by L. 1911, ch. 699.

c. To enforce and to aid in the enforcement of all laws of the state relative to the preservation of human life, or to the care, promotion or protection of life;

d. To cause the vacation of any building which is unfit for human habitation or dangerous to life or health;

e. To enforce all laws relative to the use or sale of poisonous, unwholesome, deleterious or adulterated drugs, medicines or food;

f. To take all steps necessary to the sanitary supervision and protection of the water supply of the city, and the sources thereof;

g. To use all reasonable means for ascertaining the existence and cause of disease or peril to life or health, and for averting the same;

h. To send promptly all proper information in its possession to the health authorities of the state and of any division thereof who may request the same;

i. To gather such information and preserve such record of facts relating to births, deaths, disease and health as may be useful in the discharge of its duties, and as may tend to public welfare and the promotion of health or the security of life;

j. To order and enforce the repairing of buildings, structures and houses, when necessary for the public health;

k. To remove or cause to be removed to a proper place designated by it any person sick with a contagious, pestilential or infectious disease, and to designate, provide and pay for the use of places for such purposes;

l. To erect, establish, maintain and furnish, in such places within the city as are now used or may hereafter be designated by the board of estimate and apportionment for such purposes, buildings and hospitals for the care and treatment of persons sick with contagious diseases;

m. To take possession of and occupy for temporary hospitals any buildings in the city during the prevalence of an epidemic, if in the judgment of the board the same are required, and to pay a just compensation for property so taken;

n. To cause proper care and attendance to be given to any sick person, when it shall appear to the department that the public health requires such person to receive special medical care and attendance;

o. To add to, revise, alter or amend the sanitary code of the city in force at the time this act takes effect;

p. To require reports and information of such facts as it may desire relative to the safety of life and promotion of health, at such times and in such form as it may prescribe from hospitals, jails and schools, and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers; and from the proprietors, managers, lessees and occupants of all theatres, and other places of public resort or amusement, within the jurisdiction of the city;

q. To forbid, and adopt means to prevent, communication with or access to any person, family, house, street or part of the city infected with any contagious, infectious or pestilential disease; but physicians, nurses or messengers may carry advice, medicines and necessities to the afflicted.

r. To enforce the laws of the state and the ordinances of the city relating to the securing and destruction of unlicensed and dangerous dogs and other animals;

s. To inspect all public schools; and such board of health shall possess the powers and be subject to the same duties and liabilities as provided by the said statutes and laws of the acts of the legislature of said state of New York now in force, in relation to the preservation of the public health and boards of health of the cities in this state, except said cities which are expressly excluded through the operation of the said acts.

TITLE XIII.

MISCELLANEOUS PROVISIONS.

§ 213. Repealed.

§ 214. Repealed.

§ 220. Repealed.

§ 2. This act shall take effect immediately.

CHAPTER 614

AN ACT to relieve the Wallkill Transit Company from paving that portion of the part of East Main street, in the city of Middletown, from the easterly track of the New York, Ontario and Western Railway Company easterly to the city limits, which is two feet in width outside of the rails of the tracks of said company.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Relief from
certain
paving.

Section 1. The Wallkill Transit Company is hereby relieved from the duty of paving that portion of the part of East Main street in the city of Middletown from the easterly track of the New York, Ontario and Western Railway Company easterly to the city limits which is two feet in width outside of the rails of the tracks of said company.

Pending
actions.

§ 2. This act shall not affect any action or proceeding now pending in any court.

§ 3. This act shall take effect immediately.

CHAPTER 615

AN ACT to amend the workmen's compensation law, generally.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter eight hundred and sixteen of the laws of nineteen hundred and thirteen, entitled "An act in relation to assuring compensation for injuries or death of certain employees in the course of their employment and repealing certain sections of the labor law relating thereto, constituting chapter sixty-seven of the consolidated laws," as re-enacted by chapter forty-one of the laws of nineteen hundred and fourteen, as amended, is hereby amended to read as follows:

L. 1913,
ch. 816, as
re-enacted
by L. 1914,
ch. 41,
amended.

CHAPTER 67 OF THE CONSOLIDATED LAWS.

WORKMEN'S COMPENSATION LAW.

- Article 1. Short title; definitions; application (§§ 1-3).
 2. Compensation (§§ 10-34).
 3. Occupational diseases (§§ 37-48).
 4. Security for compensation (§§ 50-56*).
 5. State insurance fund (§§ 90-105†).
 6. Miscellaneous provisions (§§ 110-130‡).
 7. Laws repealed; when to take effect (§§ 140, 141).

ARTICLE 1

SHORT TITLE; DEFINITIONS; APPLICATION

- Section 1. Short title.
 2. Definitions.
 3. Application.

Section 1. **Short title.** This chapter shall be known as the "workmen's compensation law." Source.—
Former § 1.

§ 2. **Definitions.** As used in this chapter, 1. "Hazardous employment" means a work or occupation described in section three of this chapter. Source.—
Former § 2.

2. "Department" means the department of labor of the state of New York;

"Commissioner" means the industrial commissioner of the state of New York;

"Board" means the industrial board of the state of New York.

3. "Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee

*So in original. [Should be 57.]

†So in original. [Should be 106.]

‡So in original. [Should be 129.]

¹The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

of a person, partnership, association or corporation, employing workmen in hazardous employments including the state and a municipal corporation or other political subdivision thereof.

4. "Employee" means a person engaged in one of the occupations enumerated in section three or who is in the service of an employer whose principal business is that of carrying on or conducting a hazardous employment upon the premises or at the plant, or in the course of his employment away from the plant of his employer; and shall not include farm laborers or domestic servants.

5. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain, or in connection therewith, except where the employer and his employees have by their joint election elected to become subject to the provisions of this chapter as provided in section three.

6. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

7. "Injury" and "personal injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom.

8. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

9. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including the reasonable value of board, rent, housing, lodging or similar advantage received from the employer.

10. "State fund" means the state insurance fund provided for in article five of this chapter.

11. "Child" shall include a posthumous child, a child legally adopted prior to the injury of the employee; and a step-child or acknowledged illegitimate child dependent upon the deceased.

12. "Insurance carrier" shall include the state fund, stock corporations or mutual associations with which employers have insured, and employers permitted to pay compensation directly under the provisions of subdivisions three or four of section fifty.

13. "Manufacture," "construction," "operation" and "installation" shall include "repair," "demolition," "fabrication" and "alteration" and shall include all work done in connection with the repair of plants, buildings, grounds and approaches of all places where any of the hazardous employments are being carried on, operated or conducted.

Source.—
Former § 1. § 3. **Application.** 1. Hazardous employments. Compensation shall be payable for injuries or death incurred by employees in the following employments:

Group 1. Canning of:

Fish

Foodstuffs

Fruit

Vegetables

Group 2. Care of:

Buildings
Grounds

Trees

Group 3. Construction of:

Bridges
Buildings
Car shops
Conduits
Curbs
Dams
Dynamos
Electric light and power lines
 or appliances
Electric railways
Highways
Incline railways
Machine shops

Manufacturing plants
Power plants
Railways
Sewers
Sidewalks
Steam plants
Steam railways
Steel bridges and buildings
Street railways
Structures of all kinds
Subaqueous works
Subways
Telegraph lines
Telephone lines

Group 4. Installation of:

Boilers
Dynamos
Electric light and power lines
 or appliances
Elevators
Engines, stationary

Fire escapes
Heating apparatus
Lighting apparatus
Machinery, heavy
Pipes
Telephones

Group 5. Laying of:

Cables
Pipes

Tiles
Wires

Group 6. Manufacture of:

Acids
Adding machines
Aeroplanes
Agricultural implements
Aircraft
Alcohol
Ammonia
Ammunition
Anchors
Artificial ice or stone
Asbestos
Asphalt
Asphalted paper
Automobiles
Baby carriages, toy
Bags, cloth and paper
Barrels
Baskets
Beds
Bedsprings

Belting
Bicycles
Biscuits
Blacking or polish for shoes
Blankets
Boats, small
Boilers
Bolts
Bone articles
Boots
Boxes
Brick
Brooms
Brushes
Butter
Buttons
Cables
Calcium carbide
Cameras and supplies
Candles

Candy	Fibre
Canoes	Films for pictures
Canvas	Firearms
Caps	Fire-proofing
Cardboard boxes	Fixtures, water, gas or electric
Carpets	Foodstuffs
Carpet sweepers	Forgings
Carriage mountings	Furnaces
Carriages	Furniture
Cash registers	Furs
Castings	Gas fixtures
Cattle foods	Gases
Celluloid	Gasoline
Cement	Gelatine
Cereals	Glass
Charcoal	Glass products and wares
Cheese	Gloves
Cheese boxes	Glue
Chemical preparations, non-corrosive	Gold ware
Chemicals	Gun powder
Cigarettes	Hardware
Cigars	Harness
Cloth	Hats
Clothing	Headings
Coffins	Hemp or manila products
Collars	Hose, rubber
Color	Hosiery
Concrete blocks	Ice, artificial
Condiments	Ice cream
Confectionery	Ink
Cordage	Implements, agricultural
Corrosive acids or salts	Instruments
Corrugated paper boxes	Interior woodwork
Corsets	Iron, structural
Crackers	Ivory articles
Cutlery	Japans
Dairy products	Jewelry
Door screens	Kegs
Doors	Leather goods and products
Drugs	Light machines
Dyes	Liquors
Electric fixtures	Locomotives
Elevators	Machinery
Engines, heavy and traction	Machines, adding, light and threshing
Excelsior	Malt liquors
Explosives	Manila or hemp products
Extracts	Malteses
Fabrics	Mattresses
Fabrics, articles from	Meat products
Felt	Meats
Fertilizers	Medicines

Men's clothing	Shades, window
Metal articles, beds, instruments, toys, utensils and wares	Shafting
Metal products, sheet	Sheet metal and products thereof
Metal, structural	Shell articles
Milk products	Shirts
Mineral water	Shoddy
Motor vehicles	Shoe blacking or polish
Mouldings	Shoes
Moving picture films and machines	Silver ware
Nails	Sleighs
Oil	Soaps
Organs	Socks
Paint	Soda water
Paper	Spices
Paper boxes	Spirituous, liquors
Paper, tarred, pitched or asphalted	Spokes
Paste	Stationery
Paving blocks and material	Staves
Perfumes	Steel, structural
Petroleum and products thereof	Stockings
Pharmaceutical preparations	Stone, artificial
Photographic cameras and supplies	Stoves
Pianos	Structural steel, iron or metal
Pipes	Sweepers, carpet
Pitched paper	Tar
Plaster, compounds of	Tarred paper
Plated ware	Terra-cotta
Polish for shoes	Textiles
Porcelain	Textiles, articles from
Pottery	Thread
Printers' rollers	Threshing machines
Printing ink	Tile
Pyroxylin and its compounds and plastics	Tires, rubber
Rails	Tobacco and products thereof
Rattan ware	Toilet preparations
Registers, cash	Tools
Robes	Toys, metal and wooden
Ropes	Traction engines
Rubber goods	Trunks
Saddlery	Tubing, metal and rubber
Safes	Tubs
Salts, or acids, corrosive	Turpentine
Sanitary fixtures	Typewriters
Screens, window and door	Umbrellas
Screws	Utensils
	Valises
	Varnish
	Vats
	Vehicles
	Veneer
	Wagons

Wallpaper
 Water fixtures
 Waters, mineral or soda
 Wax
 White ware
 Wicker ware
 Window screens and shades

Wine
 Wire and wire goods
 Women's clothing
 Wooden articles
 Woodwork, interior
 Yarn

Group 7. Operation of:

Aeroplanes
 Air craft
 Barges
 Boats
 Boilers, stationary
 Cables, telegraph
 Car shops
 Cars
 Dynamos
 Electric light and power lines
 or appliances
 Electric railways
 Electric vehicles, rollers and
 engines
 Elevators, freight, passenger
 and grain
 Engines, stationary and trac-
 tion
 Gas vehicles, rollers and
 engines
 Gas wells
 Gasoline vehicles, rollers and
 engines
 Grain elevators
 Hand trucks

Horse drawn vehicles, rollers
 and engines
 Incline railways
 Lighters
 Machines shops
 Oil wells
 Plants, power and other
 Railways
 Rollers
 Ships
 Stationary engines and boilers
 Steam plants
 Steam railways
 Street railways
 Telegraph lines
 Telephone lines
 Threshing machines
 Traction engines
 Transports
 Trucks
 Tug boats
 Vehicles
 Vessels
 Wagons
 Waterworks

Group 8. Preparation of:

Fish
 Foodstuffs
 Fruit
 Gelatine
 Meat stuffs
 Meats

Metals
 Minerals
 Paste
 Vegetables
 Wax

Group 9. Removal of:

Ashes
 Awnings

Garbage
 Snow

Group 10. Sinking of:

Drilled wells
 Gas wells

Oil wells
 Salt wells

Group 11. Storage or handling of:

Ammunition
 Cargoes

Corrosive acids or salts
 Chemicals

Explosives
Gasoline
Gun powder

Group 12. Work as:

Barbers
Blacksmiths
Carpenters
Chauffeurs
Drivers
Furriers
Garbage sorters
Horseshoers
Janitors
Life guards
Longshoremen

Group 13. Work at:

Awning erection
Blasting
Bleaching
Boiler covering
Bookbinding
Booming timber or logs
Bottling
Brick-laying
Building, care, maintenance
and salvage
Cable laying or repair, under-
ground
Canning
Carpentry
Clam cultivating, harvesting,
opening or planting
Cleaning clothes, streets, win-
dows, or buildings
Concreting
Cork cutting
Decorating
Disinfecting
Dredging
Dyeing
Electrotyping
Embossing
Engraving
Excavation
Glazing
Grave digging
Heating
Ice distribution, harvesting or
storage
Landscape gardening
Lighting

Ice
Petroleum

Marble workers
Masons
Movers
Sheet metal workers
Teamsters
Theatrical electricians, fly-
men, lamp operators, mov-
ing picture machiners,
property men, stage car-
penters and stage hands

Lithographing
Logging
Lumbering, except operations
solely for the production of
firewood on farm lands, in
which not more than four
persons are engaged by a
single employer
Marble cutting
Marine wrecking
Milling
Mining
Multigraphing
Oyster cultivation, planting,
harvesting or opening
Ore reduction
Painting
Papering
Paving
Photo-engraving
Picture hanging
Pile driving
Pipe covering
Plastering
Plumbing
Printing
Rafting
Renovating
River-driving
Road building
Roofing
Salvaging of buildings or
contents
Sea food cultivation, harvest-
ing or planting

Shaft sinking
 Ship building
 Smelting
 Stereotyping
 Stone crushing, cutting, dressing, grinding or setting
 Storage of all kinds and storage for hire
 Street cleaning or construction
 Structural carpentry

Subaqueous construction
 Subway construction
 Tree moving, planting, trimming and surgery
 Tunneling
 Undertaking
 Upholstering
 Warehousing
 Well digging or drilling
 Window cleaning
 Wrecking, marine

Group 14. Work in:

Abattoirs
 Bakeries
 Bark mills
 Boarding stables
 Breweries
 Caissons
 Clay pits
 Coal yards
 Compressed air compartments
 Dining cars
 Distilleries
 Express cars
 Fish markets
 Flax mills
 Foundries
 Garages
 Garbage plants
 Gravel pits
 Groceries, wholesale
 Hotels having four or more workmen or operatives
 Junk dealers' places
 Knitting factories
 Laboratories
 Lath mills
 Laundries, power
 Life-saving stations
 Lime kilns
 Livery stables
 Lumber yards

Machine shops
 Markets, fish, meat, poultry
 Meat markets
 Packing houses
 Paper mills
 Parlor cars
 Pickle factories
 Planing mills
 Poultry markets
 Printing plants
 Pulp mills
 Quarries
 Rolling mills
 Sales stables
 Sand pits
 Sash and door factories
 Saw mills
 Sewage disposal plants
 Shale pits
 Shingle mills
 Sleeping cars
 Spinning manufactories
 Stables, livery, boarding or sales
 Storage warehouses
 Sugar refineries
 Tanneries
 Weaving manufactories
 Wholesale groceries

Group 15. Employment as a keeper, guard, nurse or orderly in a prison, reformatory, insane asylum or hospital maintained or operated by the state or a municipal corporation or other subdivision thereof, notwithstanding the definitions of the terms "employment," "employer" or "employee" in subdivisions three, four and five of section two of this chapter.

Group 16. Employment as a district forest ranger, forest ranger, observer, chief railroad inspector, game protector, in-

spector, forester, land appraiser, surveyor, assistant on survey, engineer, or assistant on construction work, by the state, notwithstanding the definitions of the terms "employment," "employer" or "employee" in subdivisions three, four and five of section two of this chapter.

Group 17. Any employment enumerated in the foregoing groups and carried on by the state or a municipal corporation or other subdivision thereof, notwithstanding the definition of the term "employment" in subdivision five of section two of this chapter.

Group 18. All other employments not hereinbefore enumerated carried on by any person, firm or corporation in which there are engaged or employed four or more workmen or operatives regularly, in the same business or in or about the same establishment either upon the premises or at the plant or away from the plant of the employer, under any contract of hire, express or implied, oral or written, except farm laborers and domestic servants.

Group 19. An employer may bring an employment that is not listed in this section within the coverage of this chapter by securing compensation to his employee or employees engaged in such employment in accordance with section fifty of this chapter.

Any employee in the service of such employer shall be deemed to have accepted, and shall be subject to the provisions of this chapter, and any act amendatory thereof, if at the time of the accident for which liability is claimed the employee shall not at the time of entering into his contract of hire have given to his employer notice in writing that he elects not to be subject to the provisions of this chapter and filed a copy thereof with the commissioner, or in the event that such contract of hire was made in advance of election of the employer, such employee shall not have given to his employer and filed with the commissioner, within twenty days after such election, notice in writing that he elects not to be subject to such provisions. A minor employee shall be deemed *sui juris* for the purpose of making such an election.

2. Occupational diseases. Compensation shall be payable for disabilities sustained or death incurred by an employee resulting from the following occupational diseases:

Column 1	Column 2
Description of diseases	Description of process
1. Anthrax.	1. Handling of wool, hair, bristles, hides or skins.
2. Lead poisoning or its sequelae.	2. Any process involving the use of lead or its preparations or compounds.
3. Zinc poisoning or its sequelae.	3. Any process involving the use of zinc or its preparations or compounds or alloys.
4. Mercury poisoning or its sequelae.	4. Any process involving the use of mercury or its preparations or compounds.

Column 1	Column 2
Description of diseases — con't.	Description of process — con't.
5. Phosphorus poisoning or its sequelae.	5. Any process involving the use of phosphorus or its preparations or compounds.
6. Arsenic poisoning or its sequelae.	6. Any process involving the use of arsenic or its preparations or compounds.
7. Poisoning by wood alcohol.	7. Any process involving the use of wood alcohol or any preparation containing wood alcohol.
8. Poisoning by nitro, hydro- and amido-derivatives of benzene (dinitro-benzol, anilin, and others), or its sequelae.	8. Any process involving the use of a nitro-, hydro- or amido-derivative of benzene or its preparations or compounds.
9. Poisoning by carbon bisulphide or its sequelae.	9. Any process involving the use of carbon bisulphide or its preparations or compounds.
10. Poisoning by nitrous fumes or its sequelae.	10. Any process in which nitrous fumes are evolved.
11. Poisoning by nickel carbonyl or its sequelae.	1.* Any process in which nickel carbonyl gas is evolved.
12. Dope poisoning (poisoning by tetrachlor-methane or any substance used as or in conjunction with a solvent for acetate of cellulose) or its sequelae.	12. Any process involving the use of any substance used as or in conjunction with a solvent for acetate of cellulose.
13. Poisoning by formaldehyde and its preparations.	13. Any process involving the use of formaldehyde and its preparations.
14. Chrome ulceration or its sequelae.	14. Any process involving the use of chromic acid or bichromate of ammonium, potassium, or sodium, or their preparations.
15. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances.	15. Handling or use of tar, pitch, bitumen, mineral oil, or paraffin or any compound, product or residue of any of these substances.
16. Glanders.	16. Care or handling of any equine animal or the carcass of any such animal.

*So in original. [Should be "11."]

Column 1	Column 2
Description of diseases — con't.	Description of process — con't.
17. Compressed air illness or its sequelae.	17. Any process carried on in compressed air.
18. Miners' diseases, including only cellulitis, bursitis, ankylostomiasis, tenosynovitis and nystagmus.	18. Any process involving mining.
19. Cataract in glassworkers.	19. Processes in the manufacture of glass involving exposure to the glare of molten glass.

ARTICLE 2

COMPENSATION

Section 10. Liability for compensation.

11. Alternative remedy.
12. Compensation not allowed for first two weeks.
13. Treatment and care of injured employees.
14. Weekly wages basis of compensation.
15. Schedule in case of disability.
16. Death benefits.
17. Aliens.
18. Notice of injury.
19. Physical examination.
20. Determination of claims for compensation.
21. Presumptions.
22. Modification of award.
23. Appeals.
24. Costs and fees.
25. Compensation, how payable.
26. Enforcement of payment in default.
27. Depositing future payments.
28. Limitation of right to compensation.
29. Subrogation to remedies of employee.*
30. Revenues or benefits from other sources not to affect compensation.
31. Agreement for contribution by employee void.
32. Waiver agreements void.
33. Assignments; exemptions.
34. Preferences.

§ 10. Liability for compensation. Every employer subject to this chapter shall in accordance with this chapter secure compensation to his employees and pay or provide compensation for their disability or death from injury arising out of and in the course of the employment, without regard to fault as a cause of the injury, except that there shall be no liability for compensation under this chapter when the injury has been solely occasioned by intoxication of the injured employee while on duty or by willful intention of the injured employee to bring about the injury or death of himself or another.

Source.—
Former
§ 10.

* So in original. [Does not conform to section heading.]

Source.—
Former
§ 11.

§ 11. **Alternative remedy.** The liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee, his personal representatives, husband, parents, dependents or next of kin, or anyone otherwise entitled to recover damages, at common law or otherwise on account of such injury or death, except that if an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

Source.—
Former
§ 12.

§ 12. **Compensation not allowed for first two weeks.** No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section thirteen of this chapter, provided, however, that in case the injury results in disability of more than forty-nine days the compensation shall be allowed from the date of the disability.

Source.—
Former
§ 13.

§ 13. **Treatment and care of injured employees.** The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus for such period as the nature of the injury or the process of recovery may require. If the employer fail to provide the same, after request by the injured employee such injured employee may do so at the expense of the employer. The employee shall not be entitled to recover any amount expended by him for such treatment or services unless he shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide the same; nor shall any claim for medical or surgical treatment be valid and enforceable, as against such employer, unless within twenty days following the first treatment, the physician giving such treatment, furnish to the employer and the industrial commissioner a report of such injury and treatment, on a form prescribed by the industrial commissioner. All fees and other charges for such treatment and services shall be subject to regulation by the commissioner as provided in section twenty-four of this chapter, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

Source.—
Former
§ 14.

§ 14. **Weekly wages basis of compensation.** Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the

basis upon which to compute compensation or death benefits, and shall be determined as follows:

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed;

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed;

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, such annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the accident;

4. The average weekly wages of an employee shall be one-fifty-second part of his average annual earnings;

5. If it be established that the injured employee was a minor when injured, and that under normal conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wages.

§ 15. **Schedule in case of disability.** The following schedule of compensation is hereby established:

Source.—
Former
§ 15.

1. **Permanent total disability.** In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

2. **Temporary total disability.** In case of temporary total disability, sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

3. **Permanent partial disability.** In case of disability partial in character but permanent in quality the compensation shall be

sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in this subdivision, as follows:

Member lost	Number of weeks' compensation	Member lost	Number of weeks' compensation
a. Arm	312	g. First finger	46
b. Leg	288	h. Great toe	38
c. Hand	244	i. Second finger	30
d. Foot	205	j. Third finger	25
e. Eye	128	k. Toe other than great toe	16
f. Thumb	60	l. Fourth finger	15

m. Loss of hearing. Compensation for loss of the hearing of both ears, for one hundred and fifty weeks.

n. Phalanges. Compensation for the loss of more than one phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.

o. Amputated arm or leg. Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for loss of the arm or leg; but, if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot.

p. Binocular vision or per centum of vision. Compensation for loss of binocular vision or for eighty per centum or more of the vision of an eye shall be the same as for loss of the eye.

q. Two or more digits. Compensation for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby but shall not exceed the compensation for loss of a hand or foot.

r. Total loss of use. Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

s. Partial loss or partial loss of use. Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

t. Disfigurement. The board may award proper and equitable compensation for serious facial or head disfigurement, not to exceed three thousand five hundred dollars.

u. Other cases. In all other cases in this class of disability, the compensation shall be sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the board on its own motion or upon application of any party in interest.

4. Effect of award. An award made to a claimant under subdivision three shall in case of death arising from causes other than the injury be payable to and for the benefit of the persons following:

a. If there be a surviving wife (or dependent husband) and no child of the deceased under the age of eighteen years, to such wife (or dependent husband.)

b. If there be a surviving wife (or dependent husband) and surviving child or children of the deceased under the age of eighteen years, one-half shall be payable to the surviving wife (or dependent husband) and the other half to the surviving child or children.

The board may in its discretion require the appointment of a guardian for the purpose of receiving the compensation of the minor child. In the absence of such a requirement by the board the appointment for such a purpose shall not be necessary.

c. If there be a surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then to such child or children.

An award for disability may be made after the death of the injured employee.

5. Temporary partial disability. In case of temporary partial disability resulting in decrease of earning capacity, the compensation shall be two-thirds of the difference between the injured employee's average weekly wages before the accident and his wage earning capacity after the accident in the same or another employment but shall not exceed in total three thousand five hundred dollars.

6. Maximum and minimum compensation for disability. Compensation for disability shall not exceed twenty dollars per week nor be less than eight dollars per week; provided, however, that if the employee's wages at the time of injury are less than eight dollars per week, he shall receive his full weekly wages.

7. Previous disability. The fact that an employee has suffered previous disability or received compensation therefor shall not preclude him from compensation for a later injury nor preclude compensation for death resulting therefrom; but in determining compensation for the later injury or death his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later injury, provided, however, that an employee who is suffering from a previous disability shall not receive compensation for a later injury in excess of the compensation allowed for such injury when considered by itself and not in conjunction with the previous disability.

8. Permanent total disability after permanent partial disability. If an employee who has previously incurred permanent partial disability through the loss of one hand, one arm, one foot, one leg, or one eye, incurs permanent total disability through the loss of another member or organ, he shall be paid, in addition to the compensation for permanent partial disability provided in this section and after the cessation of the payments for the prescribed period of weeks special additional compensation for the remainder of his life to the amount of sixty-six and two-thirds per centum of the average weekly wage earned by him at the time the total permanent disability was incurred. Such additional

compensation shall be paid out of a special fund created for such purpose in the following manner: The insurance carrier shall pay to the state treasurer for every case of injury causing death in which there are no persons entitled to compensation the sum of five hundred dollars. The state treasurer shall be the custodian of this special fund, and the commissioner shall direct the distribution thereof.

9. Maintenance for employees undergoing vocational rehabilitation. An employee, who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the state board of vocational education is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance; but such additional compensation shall not exceed ten dollars a week. The expense shall be paid out of a special fund created in the following manner: The insurance carrier shall pay to the state treasurer for every case of injury causing death, in which there are no persons entitled to compensation, the sum of five hundred dollars. The state treasurer shall be the custodian of this special fund and the industrial commissioner shall direct the distribution thereof.

Source.—
Former
§ 16.

§ 16. **Death benefits.** If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

1. Reasonable funeral expenses not exceeding one hundred dollars;

2. If there be a surviving wife (or dependent husband) and no child of the deceased under the age of eighteen years, to such wife (or dependent husband) thirty per centum of the average wages of the deceased during widowhood (or dependent widowerhood) with two years' compensation in one sum, upon remarriage; and if there be a surviving child or children of the deceased under the age of eighteen years, the additional amount of ten per centum of such wages for each such child until of the age of eighteen years; in case of the subsequent death or remarriage of such surviving wife (or dependent husband) any surviving child of the deceased employee, at the time under eighteen years of age, shall have his compensation increased to fifteen per centum of such wages, and the same shall be payable until he shall reach the age of eighteen years; provided that the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages. The board may in its discretion require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement by the board the appointment of a guardian for such purposes shall not be necessary.

3. If there be a surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then for the support of each such child until of the age of eighteen years, fifteen per centum of the wages of

the deceased, provided that the aggregate shall in no case exceed sixty-six and two-thirds per centum of such wages.

4. If there be no surviving wife (or dependent husband) or child under the age of eighteen years or if the amount payable to surviving wife (or dependent husband) and to children under the age of eighteen years shall be less in the aggregate than sixty-six and two-thirds per centum of the average wages of the deceased, then for the support of grandchildren or brothers and sisters under the age of eighteen years, if dependent upon the deceased at the time of the accident, fifteen per centum of such wages for the support of each such person until of the age of eighteen years; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the accident, twenty-five per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between sixty-six and two-thirds per centum of such wages, and the amount payable as hereinbefore provided to surviving wife (or dependent husband) or for the support of surviving child or children.

5. Any excess of wages over one hundred and twenty-five dollars a month shall not be taken into account in computing compensation under this section. All questions of dependency shall be determined as of the time of the accident.

§ 17. **Aliens.** Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or, if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the accident, and except that the commission may, at its option, or upon the application of the insurance carrier, shall, commute all future installments of compensation to be paid to such aliens, by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission.

Source.—
Former
§ 17.

§ 18. **Notice of injury.** Notice of an injury for which compensation is payable under this chapter shall be given to the commissioner and to the employer within thirty days after the accident causing such injury, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may be given by any person claiming to be entitled to compensation, or by some one in his behalf. The notice shall be in writing, and contain the name and address of the employee, and state in ordinary language the time, place, nature and cause of the injury, and be signed by him or by a person on his behalf or, in case of death, by any one or more of his dependents, or by a person on their behalf. It shall be given to the commissioner by sending it by mail, by registered letter, addressed to the commissioner at his office. It shall be given to

Source.—
Former
§ 12.

the employer by delivering it to him or sending it by mail, by registered letter, addressed to the employer at his or its last known place of business; provided that, if the employer be a partnership then such notice may be so given to any one of the partners, and if the employer be a corporation, then such notice may be given to any agent or officer thereof upon whom legal process may be served, or any agent in charge of the business in the place where the injury occurred. The failure to give notice of injury or notice of death unless excused by the board either on the ground that notice for some sufficient reason could not have been given, or on the ground that the employer, or his or its agents in charge of the business in the place where the accident occurred or having immediate supervision of the employee to whom the accident happened, had knowledge of the accident, or on the ground that the employer has not been prejudiced thereby, shall be a bar to any claim under this chapter, but the employer and the insurance carrier shall be deemed to have waived such notice unless the objection to the failure to give such notice or the insufficiency thereof, is raised before the board on the hearing of the claim filed by such injured employee, or his or her dependents.

Source.—
Former
§ 18.

§ 19. **Physical examination.** An injured employee claiming or entitled to compensation shall submit to such physical examination as the commissioner or the board may require. The place or places shall be reasonably convenient for him. Such physician or physicians as the employee or carrier may select and pay for may participate in an examination if the employee or carrier so requests. Proceedings shall be suspended and no compensation be payable for any period during which he may refuse to submit to examination.

Source.—
Former
§ 20.

§ 20. **Determination of claims for compensation.** At any time after the expiration of the first fourteen days of disability on the part of an injured employee, or at any time after his death, a claim for compensation may be presented to the employer or to the commissioner. The board shall have full power and authority to determine all questions in relation to the payment of claims presented to it for compensation under the provisions of this chapter. The commissioner or board shall make or cause to be made such investigation as it deems necessary, and upon application of either party, shall order a hearing, and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determining such claim for compensation, and file the same in the office of the department. Immediately after such filing the commissioner shall send to the parties a copy of the decision. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The decision of the board shall be final as to all questions of fact, and, except as provided in section twenty-three, as to all questions of law.

Source.—
Former
§ 21.

§ 21. **Presumptions.** In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary

1. That the claim comes within the provision of this chapter;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty.

§ 22. **Modification of award.** Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the board may at any time review any award, decision or order and, on such review, may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid, except that an award for increased wages under subdivision five of section fourteen may be made effective from date of injury.

Source.—
Former
§ 22.

§ 23. **Appeals.** An award or decision of the board shall be final and conclusive upon all questions within its jurisdiction, as against the state fund or between the parties, unless reversed or modified on appeal therefrom as hereinafter provided. Within thirty days after notice of the filing of the award or the decision of the board has been sent to the parties an appeal may be taken to the appellate division of the supreme court, third department, from such award or decision by any party in interest including an employer insured in the state fund. If notice of such appeal is served upon the board, the board shall within thirty days thereafter serve upon the parties in interest and file its findings of fact and rulings of law in such case. The board may also, in its discretion certify to such appellate division of the supreme court, questions of law involved in its decision. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The board shall be deemed a party to every such appeal, and the attorney-general, without extra compensation, shall represent the board thereon. An appeal may also be taken to the court of appeals in all cases where the decision of the appellate division is not unanimous and by the consent of the appellate division or the court of appeals where the decision of the appellate division is unanimous in the same manner and subject to the same limitations not inconsistent herewith as is now provided in civil actions. It shall not be necessary to file exceptions to the rulings of the board. Neither the commissioner, the board nor the claimant shall be required to file a bond upon an appeal to the court of appeals. Otherwise such appeals shall be subject to the law and practice applicable to appeals in civil actions. Upon final determination of such an appeal, the board shall enter an order in accordance therewith.

Source.—
Former
§ 23.

§ 24. **Costs and fees.** If the board or the court before which any proceedings for compensation or concerning an award of

Source.—
Former
§ 24.

compensation have been brought, under this chapter, determine that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceedings upon the party who has so brought them. Claims of attorneys and counselors-at-law for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to section thirteen of this chapter, shall not be enforceable unless approved by the board. If so approved, such claim or claims shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the board. Any other person, firm or corporation who shall exact or receive fee or gratuity for any services, rendered on behalf of a claimant except in an amount determined by the board, shall be guilty of a misdemeanor. Any person, firm or corporation who shall solicit the business of appearing before the board on behalf of a claimant, or who shall make it a business to solicit employment for a lawyer in connection with any claim for compensation under this chapter shall be guilty of a misdemeanor. In case an award is affirmed upon an appeal to the appellate division, the same shall be payable with interest thereon from the date when said award was made by the board.

Source.—
Former
§ 25.

§ 25. **Compensation, how payable.** The compensation herein provided for shall be paid periodically and promptly in like manner as wages, and as it accrues, and directly to the person entitled thereto without waiting for an award by the industrial board, except in those cases in which the right to compensation is controverted by the employer. The first payment of compensation shall become due on the twenty-first day of disability, on which date or within four days thereafter all compensation then due shall be paid, and the compensation payable bi-weekly thereafter; but the industrial board may determine that any payments may be made monthly or at any other period, as it may deem advisable. If the employer or insurance carrier does not controvert the injured workman's right to compensation such employer or insurance carrier shall, either on or before the twenty-fifth day after disability, or within fifteen days after the employer first has knowledge of the alleged accident, begin paying compensation and shall immediately notify the commissioner in accordance with a form to be prescribed by him, that the payment of compensation has begun, accompanied by the further statement that the employer or insurance carrier, as the case may be, will notify the commissioner when the payment of compensation has been stopped. Immediately upon the stoppage or suspension of payments of compensation the employer or insurance carrier shall notify the commissioner of such act on a form to be prescribed by him. In case the employer decides to controvert the right to compensation he shall, either on or before the twenty-fifth day of disability or within ten days after he has knowledge of the alleged accident, file a notice with the commissioner, on a form prescribed by him, that compensation is not being paid, giving the name of the claimant, name of the employer, date of the alleged accident and the reason why compensation is not being paid. The

commissioner may in the interest of justice at any time refer a case in which payments are being made as above to the industrial board for a hearing, and shall immediately upon receipt of notice from the injured workman, from the employer, or from the insurance carrier that the employee's right to compensation is controverted, or that payments of compensation have stopped or been suspended, make such investigations, or cause such medical examinations to be made, or refer the case for such hearings, as will properly protect the rights of both parties, either as to any compensation then due or as to any compensation that may become due in the future for temporary or permanent disability, and promptly cause the resumption of payments in case the injured person is entitled thereto. If the employer or insurance carrier shall fail to pay any instalment of compensation within twenty-five days after the same becomes due, there shall be paid by the employer or, if insured, his insurance carrier, an additional amount of ten per centum of the compensation then due which shall accrue for the benefit of the injured workman or his dependents and shall be paid to him or them with the compensation, unless such delay or default is excused by the industrial board upon the application of the employer or insurance carrier upon the ground that owing to conditions over which the employer or insurance carrier had no control, such payment could not be made. Nothing herein shall limit the right of the industrial board in a particular case to hold a hearing and make an award in accordance with other provisions of this chapter. No case shall be closed without notice to all parties interested and without giving to all such parties an opportunity to be heard. If the employer has made advance payments of compensation, he shall be entitled to be reimbursed out of an unpaid instalment or instalments of compensation due, provided his claim for reimbursement is filed before compensation is paid. An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall produce the same for inspection by the commissioner, whenever required. If the employer or his insurance carrier shall fail to make payments of compensation according to the terms of the award, within ten days thereafter, except in case of an appeal there shall be imposed a penalty equal to twenty per centum of the unpaid compensation which shall accrue to the benefit of the injured workman or his dependents and shall be paid to him or them. When the final payment is made or due the employer or his insurance carrier shall within sixteen days send to the commissioner a notice on a form prescribed by the commissioner that such final payment is due or has been made fulfilling completely the terms of the award, which notice shall contain the name of the injured employee or his principal dependent, the date of accident, the date to which compensation has been paid and the whole amount of compensation paid, and in case the employer or his insurance carrier fail so to notify the commissioner of the cessation of payments within sixteen days after the date to which com-

pensation is due or has been paid, the commissioner shall assess against such employer or his insurance carrier the sum of one hundred dollars, one-half of which shall be paid into the special fund created under favor of numbered paragraph eight of section fifteen herein and one-half of which shall be paid into the state treasury and be applicable to the expenses of the department. Whenever the commissioner may deem it advisable he may require any employer or insurance carrier to make a deposit with the commissioner to secure the prompt and convenient payment of such compensation, and the commissioner shall have power to make payments therefrom upon any awards. The industrial board, whenever it shall so deem advisable, may commute such periodical payments to one or more lump sum payments to the injured employee, or, in case of death, his dependents, provided the same shall be in the interests of justice. Such commutation shall be made according to the method prescribed in section twenty-seven of this chapter.

Source.—
Former
§ 24.

§ 26. **Enforcement of payment in default.** In case of default by the employer in the payment of any compensation due under an award for the period of thirty days after payment is due and payable, or, where the employer has failed to secure the payment of compensation to his employees as required by section fifty hereof where there is such default in payment for a period of ten days after same is due, any party in interest may file with the county clerk for the county in which the injury occurred, or the county in which the employer has his principal place of business, a certified copy of a decision of the state industrial board awarding compensation, or ending, diminishing or increasing compensation previously awarded, from which no appeal has been taken within the time allowed therefor, or if an appeal has been taken by an employer who has not complied with the provisions of section fifty hereof, where he fails to deposit with the commissioner the amount of the award as security for its payment within ten days after same is due and payable, and thereupon judgment must be entered in the supreme court by the clerk of such county in conformity therewith immediately upon the filing of such decision. If the payment in default be an instalment, the commissioner may declare the entire award due and judgment may be entered in accordance with the provisions of this section. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom. The court shall vacate or modify such judgment to conform to any later award or decision of the board upon presentation of a certified copy of such award or decision. The award may be so compromised by the board as in the discretion of the board may best serve the interest of the persons entitled to receive the compensation or benefits. Neither the commissioner nor any party in interest shall be required to pay any fee to any public officer for filing or recording any paper or instrument executed in pursuance of this section.

§ 27. **Depositing future payments.** If an award under this chapter requires payment of death benefits or other compensation by an insurance carrier or employer in periodical payments, the board may, in its discretion, at any time, any provision of this chapter to the contrary notwithstanding, compute and permit or require to be paid into the state fund an amount equal to the present value of all unpaid death benefits or other compensation in cases in which awards are made for total permanent or permanent partial disability for a period of one hundred and four weeks or more, for which liability exists, together with such additional sum as the board may deem necessary for a proportionate payment of expenses of administering the fund so created. The moneys so paid in for all death benefits or other compensation to constitute one aggregate and indivisible fund; and thereupon such employer or insurance carrier shall be discharged from any further liability under such award and payment of the same as provided by this chapter shall be assumed by the special fund so created. All computations made by the board shall be upon the basis of the survivorship annuitants table of mortality, the remarriage tables of the Dutch Royal Insurance Institution and interest at three and one-half per centum per annum.

Source.—
Former
§ 27.

Such special fund shall be kept separate and apart from all other moneys of the state fund, and shall not be liable for any losses or expenses of administration of the state fund other than the expenses involved in the administration of such special fund, nor shall the state fund be charged with the losses or expenses of the aggregate special fund beyond the amount of such special fund.

Any portion of such special fund may be invested by the commissioner, with the approval of the superintendent of insurance, in the same securities as provided in this chapter for the investment of the state insurance fund.

§ 28. **Limitation of right to compensation.** The right to claim compensation under this chapter shall be barred unless within one year after the accident, or if death results therefrom, within one year after such death, a claim for compensation shall be filed with the commissioner, but the employer and insurance carrier shall be deemed to have waived the bar of the statute unless the objection to the failure to file the claim within one year is raised on the hearing on such claim. No case in which an advance payment is made shall be barred by the failure of the employee to file a claim, and the board may at any time order a hearing on any such case in the same manner as though a claim for compensation had been filed.

Source.—
Former
§ 28.

§ 29. **Subrogation to remedies of employees.** If an employee entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, such injured employee, or in case of death, his dependents, shall, before any suit or any award under this chapter, elect whether to take compensation under this chapter or to pursue his remedy against such other. Such election shall be evidenced in such manner as the commissioner may by regulation prescribe. If such injured employee, or in case of death, his dependents, elect

Source.—
Former
§ 29.

to take compensation under this chapter, the awarding of compensation shall operate as an assignment of the cause of action against such other to the state for the benefit of the state insurance fund, if compensation be payable therefrom, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation, and if he elect to proceed against such other, the state insurance fund, person, association, corporation, or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by this chapter for such case. In case of the payment of an award to the state treasurer in accordance with subdivisions nine and ten of section fifteen such payment shall operate to give to the employer or insurance carrier liable for the award a cause of action for the amount of such payment together with the reasonable funeral expenses and the expense of medical treatment which shall be in addition to any cause of action by the legal representatives of the deceased. Such a cause of action assigned to the state may be prosecuted or compromised by the commissioner. A compromise of any such cause of action by the employee or his dependents at an amount less than the compensation provided for by this chapter shall be made only with the written approval of the commissioner, if the deficiency of compensation would be payable from the state insurance fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier liable to pay the same. Wherever an employee is killed by the negligence or wrong of another not in the same employ and the dependents of such employee entitled to compensation under this chapter are minors, such election to take compensation and the assignment of the cause of action against such other and such notice of election to pursue a remedy against such other shall be made by such minor, or shall be made on behalf of such minor by a parent of such minor, or by his or her duly appointed guardian, as the board may determine in each case.

Source.—
Former
§ 30.

§ 30. **Revenues or benefits from other sources not to affect compensation.** No benefits, savings or insurance of the injured employee, independent of the provisions of this chapter, shall be considered in determining the compensation or benefits to be paid under this chapter, except that, in case of the death of an employee of the state, a municipal corporation or any other political subdivision of the state, any benefit payable under a pension system which is not sustained in whole or in part by the contributions of the employee, may be applied toward the payment of the death benefit provided by this chapter.

Source.—
Former
§ 31.

§ 31. **Agreement for contribution by employee void.** No agreement by an employee to pay any portion of the premium paid by his employer to the state insurance fund or to contribute to a benefit fund or department maintained by such employer or to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein

required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor.

§ 32. **Waiver agreements void.** No agreement by an employee to waive his right to compensation under this chapter shall be valid. Source.—Former § 32.

§ 33. **Assignments; exemptions.** Compensation or benefits due under this chapter shall not be assigned, released or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees or their dependents. In case of the death of an injured employee to whom there was due at the time of his or her death any compensation under the provisions of this chapter, the amount of such compensation shall be payable to the surviving wife or husband, if there be one, or, if none, to the surviving child or children of the deceased under the age of eighteen years, and if there be no surviving wife or children, then to the dependents of such deceased employee or to any of them as the commission may direct. An award for disability may be made after the death of the injured employee. Source.—Former § 33.

§ 34. **Preferences.** Compensation shall have the same preference or lien against the assets of the carrier or employer without limit of amount as is now or may hereafter be allowed by law to the claimant for unpaid wages or otherwise. Source.—Former § 34.

ARTICLE 3

OCCUPATIONAL DISEASES

Section 37. Definitions.

38. Disablement treated as accident.
39. Right to compensation.
40. Time limit.
41. Examining physicians.
42. Date of disablement.
43. Workmen, when not entitled.
44. Liability of employer.
45. Notice to employers.
46. Information; penalty.
47. Presumption as to cause of disease.
48. Diseases which are accidents.

§ 37. **Definitions.** Whenever used in this article: 1. "Disability" means the state of being disabled from earning full wages at the work at which the employee was last employed. Dis-Source.—Former § 37.

2. "Disablement" means the act of becoming so disabled as defined in subdivision one.

§ 38. **Disablement treated as accident.** The disablement of an employee resulting from an occupational disease described in Source.—Former § 38.

subdivision two of section three shall be treated as the happening of an accident within the meaning of this chapter and the procedure and practice provided in this chapter shall apply to all proceedings under this article, except where specifically otherwise provided herein.

Source.—
Former
§ 29.

§ 39. **Right to compensation.** If an employee is disabled or dies and his disability or death is caused by one of the diseases mentioned in subdivision two of section three, and the disease is due to the nature of the corresponding employment as described in such subdivision in which such employee was engaged and was contracted therein, he or his dependents shall be entitled to compensation for his death or for the duration of his disablement in accordance with the provisions of article two, except as hereinafter stated; provided, however, that if it shall be determined that such employee is able to earn wages at another occupation which shall be neither unhealthful nor injurious, and such wages do not equal his full wages prior to the date of his disablement, the compensation payable shall be a percentage of full compensation proportionate to the reduction in his earning capacity.

Source.—
Former
§ 40.

§ 40. **Time limit.** Neither the employee nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment and contracted therein within the twelve months previous to the date of disablement, whether under one or more employers.

Source.—
Former
§ 41.

§ 41. **Examining physicians.** The industrial commissioner shall appoint one or more physicians whose duty it shall be to examine any claimant under this article and to make a report in such form as the commissioner may require.

Source.—
Former
§ 44.

§ 42. **Date of disablement.** For the purposes of this article the date of disablement shall be such date as the board may determine on the hearing on the claim.

Source.—
Former
§ 45.

§ 43. **Workmen, when not entitled.** If an employee, at the time of his employment, wilfully and falsely represents in writing that he has not previously suffered from the disease which is the cause of disability or death, no compensation shall be payable.

Source.—
Former
§ 46.

§ 44. **Liability of employer.** The total compensation due shall be recoverable from the employer who last employed the employee in the employment to the nature of which the disease was due and in which it was contracted. If, however, such disease was contracted while such employee was in the employment of a prior employer, the employer who is made liable for the total compensation as provided by this section, may appeal to the board for an apportionment of such compensation among the several employers who since the contraction of such disease shall have employed such employee in the employment to the nature of which the disease was due. Such apportionment shall be proportioned to the time such employee was employed in the service of such employers, and shall be determined only after a hearing, notice of the time and place of which shall have been given to every employer alleged to be liable for any portion of such compensation. If the board find that any portion of such compensation is payable by

an employer prior to the employer who is made liable to the total compensation as provided by this section, it shall make an award accordingly in favor of the last employer, and such award may be enforced in the same manner as an award for compensation.

§ 45. **Notice to employers.** The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the employee, shall be the employer who last employed the employee during the said twelve months in the employment to the nature of which the disease was due and in which it was contracted, and such notice and claim shall be deemed seasonable as against prior employers. Source.—Former § 47.

§ 46. **Information; penalty.** The employee or his dependents, if so requested, shall furnish the last employer or the board with such information as to the names and addresses of all his other employers during the said twelve months, as he or they may possess; and if such information is not furnished, or is not sufficient to enable such last employer to take proceedings against a prior employer under section forty-four, unless it be established that the disease actually was contracted while the employee was in his employment, such last employer shall not be liable to pay compensation, or, if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under section forty-four, such last employer shall be liable only for such part of the total compensation as under the particular circumstances the board may deem just; but a false statement in the information furnished as aforesaid shall not impair the workman's rights unless the last employer is prejudiced thereby. Source.—Former § 48.

§ 47. **Presumption as to the cause of disease.** If the employee, at or immediately before the date of disablement, was employed in any process mentioned in the second column of the schedule of diseases in subdivision two of section three, and his disease is the disease in the first column of such schedule set opposite the description of the process, the disease presumptively shall be deemed to have been due to the nature of that employment. Source.—Former § 49.

§ 48. **Diseases which are accidents.** Nothing in this article shall affect the rights of an employee to recover compensation in respect to a disease to which this article does not apply if the disease is an accidental personal injury within the meaning of subdivision seven of section two of this chapter. Source.—Former § 49b.

ARTICLE 4

SECURITY FOR COMPENSATION

Section 50. Security for payment of compensation.

51. Posting of notice regarding compensation.

52. Effect of failure to secure compensation.

53. Release from all liability.

54. The insurance contract.

55. Acceptance of premium by carrier an estoppel.

Section 56. Subcontractors.

57. Restriction on issue of permits unless compensation is secured.

Source.—
Former
§ 50;
subd. 4
from former
§ 38.

§ 50. **Security for payment of compensation.** An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation in the state fund, or

2. By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in this state.

3. By furnishing satisfactory proof to the commissioner of his financial ability to pay such compensation for himself, in which case the commissioner may, in his discretion, require the deposit with the commissioner of securities of the kind prescribed in subdivisions one, two, three, four and five, and paragraph a of subdivision seven of section two hundred thirty-nine of the banking law, in an amount to be determined by the commissioner, to secure his liability to pay the compensation provided in this chapter. The commissioner may also require an agreement on the part of an employer to pay any awards commuted under section twenty-seven of this chapter, into the special fund of the state fund, as a condition of his being allowed to remain uninsured pursuant to this section. The commissioner shall have the authority to revoke his consent furnished under this section at any time for good cause shown. The employer so electing shall be known as a self-insurer.

4. a. A county, city, village, town or other political subdivision of the state may secure compensation to its employees in accordance with subdivision one or subdivision two of this section. If it does not do so, such county, city, town, village or other political subdivision shall be deemed to have elected to secure compensation pursuant to subdivision three of this section. Such a county, city, town, village or other political subdivision shall not be required to furnish proof of financial ability or to make deposit of securities in compliance with such subdivision, but shall be obliged to meet all other requirements prescribed by this chapter for employers so electing. Such county, city, town, village or other political subdivision shall file with the commissioner notice of such election.

b. Whenever compensation is awarded to a claimant for injury to an employee of a self-insuring county, town or political subdivision, other than a city or a village, the treasurer of the county employing such employee, or containing the town or other political subdivision that employs him, shall, upon presentation of the award, forthwith begin payment of it in accordance with this chapter, using any money of the county available therefor. If none is available, he shall by temporary loan upon the credit of the county immediately borrow sufficient money to meet compensa-

tion payments that will fall due prior to collection of the next tax levy. The board of supervisors shall thereupon levy upon the taxable property of the county, if for injury to a county employee, and of the particular town or other political subdivision, if for injury to an employee of such town or other political subdivision, a sum sufficient to enable the treasurer to repay such loan and to continue compensation payments according to the requirements of the case.

c. Whenever compensation is awarded to a claimant for injury to an employee of a self-insuring city or village, the treasurer of the city or village shall, upon presentation of the award forthwith begin payment of it in accordance with this chapter, using any money of the city or village available therefor. If none is available, he shall by temporary loan upon the credit of the city or village immediately borrow sufficient money to meet compensation payments that will fall due prior to such time as the city or village may appropriate for the purpose. The city or village shall thereupon appropriate a sum sufficient to enable the treasurer to repay such loan and to continue compensation payments according to the requirements of the case.

§ 51. **Posting of notice regarding compensation.** Every employer who has complied with section fifty of this chapter shall post and maintain in a conspicuous place or places in and about his place or places of business typewritten or printed notices in form prescribed by the commissioner, stating the fact that he has complied with all the rules and regulations of the department and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter. The commissioner may require any employer to furnish a written statement at any time showing the stock corporation or mutual association in which such employer is insured or the manner in which such employer has complied with any provision of this chapter. Failure for a period of ten days to furnish such written statement shall constitute presumptive evidence that such employer has neglected or failed in respect of any of the matters so required.

Source.—
Former
§ 51.

§ 52. **Effect of failure to secure compensation.** Failure to secure the payment of compensation shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or imprisonment for not more than one year, or both.

All fines imposed under this chapter, except as herein otherwise provided, shall be paid by the officer collecting the same to the state treasurer as custodian of the special fund created under subdivision eight of section fifteen of this chapter.

§ 53. **Release from all liability.** An employer securing the payment of compensation by contributing premiums to the state fund shall thereby become relieved from all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under this chapter shall have recourse therefor only to the state fund and not to the employer. An employer shall not otherwise be relieved from the liability for

Source.—
Former
§ 52.

Source.—
Former
§ 53.

compensation prescribed by this chapter except by the payment thereof by himself or his insurance carrier.

Source.—
Former
§ 54.

§ 54. **The insurance contract.** 1. Right of recourse to the insurance carrier. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this state shall contain a provision setting forth the right of the commissioner to enforce in the name of the people of the state of New York for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

2. Knowledge and jurisdiction of the employer extended to cover the insurance carrier. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this chapter, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions of this chapter.

3. Insolvency of employer does not release the insurance carrier. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.

4. Limitation of indemnity agreements. Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this chapter.

5. Cancellation of insurance contracts. No contract of insurance issued by an insurance carrier against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration until at least ten days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the commissioner and also served on the employer. Such notice shall be served on the employer by delivering it to him or by sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership, then such notice may be so given to any one of the partners, and if the em-

ployer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. Provided, however, the right to cancellation of a policy of insurance in the state fund shall be exercised only for nonpayment of premiums.

6. Insurance of employers and officers of corporations. Any insurance carrier may issue policies, including with employees, employers or executive officers of corporations who perform labor incidental to their occupations, such policies insuring to such employers or officers the same compensations provided for their employees, and at the same rates; provided, however, that the estimation of their wage values, respectively, shall be reasonable and separately stated in and added to the valuation of their pay rolls upon which their premium is computed. The employer or officer so insured shall have the same rights and remedies given an employee by this chapter.

§ 55. **Acceptance of premium by carrier an estoppel.** Acceptance of a premium on a policy securing to an employee compensation, either alone or in connection with other insurance, shall estop the carrier so accepting from pleading that the employment of such employee is not a hazardous employment or the employment is not carried on for pecuniary gain. Source.—
New.

§ 56. **Subcontractors.** A contractor, the subject of whose contract is, involves or includes a hazardous employment, who subcontracts all or any part of such contract shall be liable for and shall pay compensation to any employee injured whose injury arises out of and in the course of such hazardous employment, unless the subcontractor primarily liable therefor has secured compensation for such employee so injured as provided in this chapter. Source.—
New.

An owner of timber other than farm lands, who contracts with another to carry on or perform work or service in connection therewith, which work or service is, involves or includes a hazardous employment, shall be liable for and shall pay compensation to any employee of such contractor, or his subcontractor, if any, injured in the course of and arising out of such hazardous employment, unless the contractor, or the subcontractor, if any, primarily liable therefor has secured compensation for such employee so injured as provided in this chapter.

§ 57. **Restriction on issue of permits unless compensation is secured.** The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit to the employer unless such employer shall produce satisfactory proof that compensation has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed. Source.—
New.

ARTICLE 5.

STATE INSURANCE FUND.

- Section 90. Creation of state fund.
91. State treasurer custodian of fund.
92. Catastrophe surplus and reserves.
93. Investment of surplus or reserve.
94. Administration expenses.
95. Rates.
96. Dividends.
97. Groups for accident prevention.
98. Payment of premiums.
99. Collection of premium in case of default.
100. Withdrawal from fund.
101. Record and audit of payrolls.
102. Wilful misrepresentation.
103. Inspections.
104. Disclosures prohibited.
105. Reports of state insurance fund; examination by insurance department.
106. Advisory committee.

Source.—
Former
§ 90.

§ 90. **Creation of state fund.** There is hereby created a fund to be known as "the state insurance fund," for the purpose of insuring employers against liability under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. Such fund shall consist of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this chapter. Such fund shall be administered by the industrial commissioner.

Source.—
Former
§ 91.

§ 91. **State treasurer custodian of fund.** The state treasurer shall be the custodian of the state insurance fund; and all disbursements therefrom shall be paid by him upon vouchers signed by the commissioner or deputy commissioner. The state treasurer shall give a separate and additional bond in an amount to be fixed by the governor and with sureties approved by the state comptroller conditioned for the faithful performance of his duty as custodian of the state fund. The state treasurer may deposit any portion of the state fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of the state insurance fund deposited by the state treasurer shall be collected by him and placed to the credit of the fund.

Source.—
Former
§ 92.

§ 92. **Catastrophe surplus and reserves.** Ten per centum of the premiums collected from employers insured in the fund shall be set aside for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars, and there-

after five per centum of such premiums, until such time as in the judgment of the commissioner such surplus shall be sufficiently large to cover the catastrophe hazard. Thereafter the contribution to such surplus may be reduced or discontinued conditional upon constant maintenance of a sufficient surplus to cover the catastrophe hazard. Reserves shall be set up and maintained adequate to meet anticipated losses and carry all claims and policies to maturity, which reserves shall be computed in accordance with such rules as shall be approved by the superintendent of insurance.

§ 93. **Investment of surplus or reserve.** Any of the surplus or reserve funds belonging to the state insurance fund may, by order of the commissioner, approved by the superintendent of insurance, be invested in or loaned on the pledge of any of the securities in which a savings bank may invest the moneys deposited therein as provided in subdivisions one, two, three, four and five of section two hundred and thirty-nine of the banking law. All such securities or evidences of indebtedness shall be placed in the hands of the state treasurer who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the state insurance fund. The state treasurer shall pay all vouchers drawn on the state insurance fund for the making of such investments when signed by the commissioner or deputy commissioner upon delivery of such securities or evidences of indebtedness to him, when there is attached to such vouchers the approval of the state superintendent of insurance. The commissioner may, upon like approval of the superintendent of insurance, sell any of such securities.

Source.—
Former
§ 92.

§ 94. **Administration expenses.** The entire expense of administering the state insurance fund shall be paid out of such fund. Prior to the first days of January, April, July and October there shall be submitted to the state board of estimate and control for its approval an estimated budget of expenditures for the succeeding three months. There may not be expended for the state insurance fund for purposes of administration more than the amounts specified in such budget for each item of expenditure, except as authorized by the board of estimate and control. In no case shall the amount of expenditures so authorized for an entire year exceed fifteen per centum of the earned premiums for that year. If there be officers or employees of the department whose duties relate partly to the general work of the department and partly to the work of the state insurance fund, and in case there is other expense which is incurred jointly on behalf of the general work of the department and the state insurance fund, an equitable apportionment of the expense shall be made and the part thereof which is applicable to the state insurance fund shall be chargeable thereto. The industrial commissioner shall include in his annual report to the legislature a statement of the expense of administering the state fund for the preceding year. All appointments to positions in the state insurance fund shall be made subject to civil service requirements.

Source.—
Former
§ 94.

Source.—
Former
§ 95.

§ 95. **Rates.** Employments and employers in the state fund shall be divided into such groups and classes as shall be equitable based upon differences of industry or hazard for the purpose of establishing premium rates, and for such purpose a system of merit rating may be employed which shall take account of the peculiar hazard of each individual risk. Premiums in the state fund shall be fixed at the lowest possible rates consistent with the maintenance of a solvent fund and of reasonable reserves and surplus.

Source.—
Former
§ 97.

§ 96. **Dividends.** Employments and employers insured in the state insurance fund may be divided into such groups as shall be equitable for the purpose of accounting and declaration of dividends but for the purpose of paying compensation the state fund shall be deemed one and indivisible. Separate accounts shall be kept of income and of losses and expenses incurred, including contributions to catastrophe surplus and reserves adequate to meet anticipated losses and carry all claims to maturity, for each such group. If such accounting shows a balance remaining to the credit of the group at the close of any policy period, which shall be deemed to be safely and properly so applied, there may be credited or paid to each individual member of such group such proportion of such balance as the amount of his earned premium sustains to the total earned premium of the group for the period for which the accounting is made. If any member who has withdrawn from the group would otherwise have been entitled to such a dividend, the same may be credited or paid to him.

Source.—
Former
§ 96.

§ 97. **Groups for accident prevention.** For any group established under the provisions of section ninety-six, membership in the group of any employer otherwise entitled to be admitted thereto may be conditioned upon acceptance and maintenance of special rules as to accident prevention or medical care of employees. Such limitation of membership in the group may be established only upon proper evidence that a majority of the members of the group have approved such rules and only when such rules have been approved by the commissioner as sufficient to constitute a proper basis of differentiation as to membership in the group.

Source.—
Former
§ 97,
subd. 4.

§ 98. **Payment of premiums.** Premiums for any policy period shall be paid into the state insurance fund at the beginning of the period according to the estimated expenditure of wages for the period. At the end of the period an adjustment of the premium shall be made according to the actual expenditure of wages. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of the true premium and the difference due. If such adjusted premium is less than the premium paid in advance, the employer shall, at his option, receive either a refund of the difference or a credit of the amount thereof on his account with the state fund.

Source.—
Former
§ 99.

§ 99. **Collection of premium in case of default.** If an employer shall default in any payment required to be made by him to the

state insurance fund, after due notice his insurance in the state fund may be cancelled and the amount due from him shall be collected by civil action against him in the name of the industrial commissioner, and the same when collected, shall be paid into the state insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money so collected as aforesaid to the state treasurer for credit to the state insurance fund.

§ 100. **Withdrawal from fund.** Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given written notice of his intention to withdraw not less than thirty days before the expiration of the period for which he has elected to insure in the fund.

Source.—
Former
§ 100.

§ 101. **Record and audit of payrolls.** Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as may be necessary to verify the number of employees and the amount of the payroll. Any employer who shall fail to keep such record or who shall wilfully falsify any such record, shall be guilty of a misdemeanor.

Source.—
Former
§§ 101, 102.

§ 102. **Wilful misrepresentation.** Any person who wilfully misrepresents any fact in order to obtain insurance in the state insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.

Source.—
Former
§ 103.

§ 103. **Inspections.** The commissioner shall have the right to inspect the plants and establishments of employers insured in the state insurance fund; and the inspectors designated by the commissioner shall have free access to such premises during regular working hours.

Source.—
Former
§ 104.

§ 104. **Disclosures prohibited.** Information acquired by the state fund, or its officers or employees, from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee who, without authority of the commissioner or pursuant to his regulations, or as otherwise required by law, shall disclose the same shall be guilty of a misdemeanor.

Source.—
Former
§ 105.

§ 105. **Reports of state insurance fund; examination by insurance department.** The commissioner shall make reports to the superintendent of insurance concerning the state insurance fund at the same times and in the same manner as is required from mutual employers' liability and workmen's compensation corporations by section one hundred and ninety-two of the insurance law, and the superintendent of insurance may examine into the condition of such state insurance fund at any time, either personally or by any duly authorized examiner appointed by him,

Source.—
Former
§ 106.

Source.—
Former
§ 95.

§ 95. **Rates.** Employments and employers in the state fund shall be divided into such groups and classes as shall be equitable based upon differences of industry or hazard for the purpose of establishing premium rates, and for such purpose a system of merit rating may be employed which shall take account of the peculiar hazard of each individual risk. Premiums in the state fund shall be fixed at the lowest possible rates consistent with the maintenance of a solvent fund and of reasonable reserves and surplus.

Source.—
Former
§ 97.

§ 96. **Dividends.** Employments and employers insured in the state insurance fund may be divided into such groups as shall be equitable for the purpose of accounting and declaration of dividends but for the purpose of paying compensation the state fund shall be deemed one and indivisible. Separate accounts shall be kept of income and of losses and expenses incurred, including contributions to catastrophe surplus and reserves adequate to meet anticipated losses and carry all claims to maturity, for each such group. If such accounting shows a balance remaining to the credit of the group at the close of any policy period, which shall be deemed to be safely and properly so applied, there may be credited or paid to each individual member of such group such proportion of such balance as the amount of his earned premium sustains to the total earned premium of the group for the period for which the accounting is made. If any member who has withdrawn from the group would otherwise have been entitled to such a dividend, the same may be credited or paid to him.

Source.—
Former
§ 96.

§ 97. **Groups for accident prevention.** For any group established under the provisions of section ninety-six, membership in the group of any employer otherwise entitled to be admitted thereto may be conditioned upon acceptance and maintenance of special rules as to accident prevention or medical care of employees. Such limitation of membership in the group may be established only upon proper evidence that a majority of the members of the group have approved such rules and only when such rules have been approved by the commissioner as sufficient to constitute a proper basis of differentiation as to membership in the group.

Source.—
Former
§ 97,
subd. 4.

§ 98. **Payment of premiums.** Premiums for any policy period shall be paid into the state insurance fund at the beginning of the period according to the estimated expenditure of wages for the period. At the end of the period an adjustment of the premium shall be made according to the actual expenditure of wages. If such adjusted premium is more than the premium paid at the beginning of the period, the employer shall pay the difference immediately upon notification of the amount of the true premium and the difference due. If such adjusted premium is less than the premium paid in advance, the employer shall, at his option, receive either a refund of the difference or a credit of the amount thereof on his account with the state fund.

Source.—
Former
§ 99.

§ 99. **Collection of premium in case of default.** If an employer shall default in any payment required to be made by him to the

state insurance fund, after due notice his insurance in the state fund may be cancelled and the amount due from him shall be collected by civil action against him in the name of the industrial commissioner, and the same when collected, shall be paid into the state insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money so collected as aforesaid to the state treasurer for credit to the state insurance fund.

§ 100. **Withdrawal from fund.** Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given written notice of his intention to withdraw not less than thirty days before the expiration of the period for which he has elected to insure in the fund.

Source.—
Former
§ 100.

§ 101. **Record and audit of payrolls.** Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as may be necessary to verify the number of employees and the amount of the payroll. Any employer who shall fail to keep such record or who shall wilfully falsify any such record, shall be guilty of a misdemeanor.

Source.—
Former
§§ 101, 102.

§ 102. **Wilful misrepresentation.** Any person who wilfully misrepresents any fact in order to obtain insurance in the state insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.

Source.—
Former
§ 103.

§ 103. **Inspections.** The commissioner shall have the right to inspect the plants and establishments of employers insured in the state insurance fund; and the inspectors designated by the commissioner shall have free access to such premises during regular working hours.

Source.—
Former
§ 104.

§ 104. **Disclosures prohibited.** Information acquired by the state fund, or its officers or employees, from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee who, without authority of the commissioner or pursuant to his regulations, or as otherwise required by law, shall disclose the same shall be guilty of a misdemeanor.

Source.—
Former
§ 105.

§ 105. **Reports of state insurance fund; examination by insurance department.** The commissioner shall make reports to the superintendent of insurance concerning the state insurance fund at the same times and in the same manner as is required from mutual employers' liability and workmen's compensation corporations by section one hundred and ninety-two of the insurance law, and the superintendent of insurance may examine into the condition of such state insurance fund at any time, either personally or by any duly authorized examiner appointed by him,

Source.—
Former
§ 106.

for the purpose of determining the condition of the investments and the adequacy of the reserves of such fund.

Source.—
New.

§ 106. **Advisory committee.** There shall be an advisory committee of the state insurance fund of nine members. The members of such advisory committee shall be employers or officers of employers insured in the state fund. They shall be appointed by the governor for terms of three years, except that of the members first appointed, the terms of three shall expire on June thirtieth, nineteen hundred and twenty-three, three on June thirtieth, nineteen hundred and twenty-four, and three on June thirtieth, nineteen hundred and twenty-five. Vacancies shall be filled for the unexpired term. Members shall continue in office until their successors are appointed. In the event that no appointment is made for three months after the expiration of the term of a member or the occurring of a vacancy, the remaining members may fill the vacancy by a majority vote.

The commissioner shall be an additional member of such committee and act as chairman thereof. The members of such committee shall serve without pay, but shall be entitled to their reasonable traveling and other expenses incurred in connection with their duties, which shall be paid out of the state fund on the warrant of the commissioner.

The advisory committee shall meet at least four times in each year. It may adopt rules of procedure. It shall be the duty of such committee to consider the condition of the state fund, and to examine into the condition of its reserves, investments and other matters relating to the administration of such fund. It shall have access to all records and books of account and shall have power to require the presence before it, or of any subcommittee, of any officer or employee of the fund. Information obtained by members of the committee shall be deemed confidential unless disclosed by order of the committee. The quarterly estimates of administrative expenditures out of the fund shall be submitted to the advisory committee for their information and advice. The commissioner shall detail to such committee such stenographic or other assistance as he may deem necessary.

ARTICLE 6.

MISCELLANEOUS PROVISIONS.

Section 110. Record and report of injuries by employers.

111. Information to be furnished by employer.

112. Inspection of records of employers.

113. Interstate commerce.

114. Penalties for false representations.

115. Limitation of time.

116. Sessions.

117. Rules.

118. Technical rules of evidence or procedure not required.

119. Subpoenas.

120. Fees of witnesses.

121. Depositions.

Section 122. Transcripts.

123. Jurisdiction of department to be continuing.

124. Blank forms.

125. Undertakings.

126. Expenses of administering workmen's compensation law.

127. Construction.

128. Unconstitutional provisions.

129. Actions or causes of action pending.

§ 110. Record and report of injuries by employers. Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing by the employer to the commissioner upon blanks to be procured from the commissioner for that purpose. Such report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, the time, nature and cause of the injury and such other information as may be required by the commissioner. An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars.

Source.—
Former
§ 111.

§ 111. Information to be furnished by employer. Every employer shall furnish the commissioner, upon request, any information required by him to carry out the provisions of this chapter. A member of the board, the commissioner, deputy commissioner, or any person deputed by the commissioner or board for that purpose, may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the commissioner a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commissioner within the period fixed by the commissioner therefor.

Source.—
Former
§ 112.

§ 112. Inspection of records of employers. All books, records any payrolls of the employers, showing or reflecting in any way upon the amount of wage expenditures of such employers shall always be open for inspection by the commissioner or any of his authorized auditors, accountants or inspectors for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the uses and purposes of the commissioner in the administration of this chapter.

Source.—
Former
§ 113.

§ 113. Interstate commerce. The provisions of this chapter shall apply to employers and employees engaged in intrastate, and also interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable

Source.—
Former
§ 114.

and distinguishable from interstate or foreign commerce, provided that awards according to the provisions of this chapter may be made by the board in respect of injuries subject to the admiralty or other federal laws in case the claimant, the employer and the insurance carrier waive their admiralty or interstate commerce rights and remedies, and the state insurance fund or other insurance carrier may assume liability for the payment of such awards under this chapter.

Source.—
Former
§ 115.

§ 114. **Penalties for false representation.** If for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for himself or any other person, any person wilfully makes a false statement or representation, he shall be guilty of a misdemeanor.

Source.—
Former
§ 116.

§ 115. **Limitation of time.** No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor so long as he has no committee or guardian.

Source.—
Former
§ 64.

§ 116. **Sessions.** The offices of the department shall be open for business during all business hours of all days except Sundays and legal holidays. All sessions of the board shall be public. The records of the board shall contain a record of each case considered, and all awards, decisions or orders with respect thereto. For convenience of parties and prevention of delay or expense, the board may hold sessions in cities other than Albany.

Source.—
Former
§ 67.

§ 117. **Rules.** The board may adopt reasonable rules consistent with and supplemental to the provisions of this chapter and the labor law. The commissioner may make reasonable regulations consistent with the provisions of this chapter and the labor law.

Source.—
Former
§ 68.

§ 118. **Technical rules of evidence or procedure not required.** The commissioner, board, referee or deputy commissioner in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties. Declarations of a deceased employee concerning the accident shall be received in evidence and shall, if corroborated by circumstances or other evidence, be sufficient to establish the accident and the injury.

Source.—
Former
§§ 69, 70.

§ 119. **Subpoenas.** A subpoena may be signed and issued by the commissioner, deputy commissioner, member of the board, referee or such other officer as may be designated by the commissioner. Failure to obey such subpoena shall constitute a contempt as provided by the civil practice act.

Source.—
Former
§ 71.

§ 120. **Fees of witnesses.** Each witness who appears in obedience to a subpoena shall be entitled to the same fees as witnesses in a civil action in the supreme court.

Source.—
Former
§ 72.

§ 121. **Depositions.** The commissioner or board may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court.

Source.—
Former
§ 73.

§ 122. **Transcripts.** A copy of the testimony, evidence and procedure of any investigation, or a particular part thereof,

transcribed by a stenographer in the employ of the department and certified by such stenographer to be true and correct may be received in evidence with the same effect as if such stenographer were present and testifying to the facts so certified. A copy of such transcript shall be furnished to any party upon payment of the fee for transcripts of similar minutes in the supreme court.

§ 123. **Jurisdiction of department to be continuing.** The power and jurisdiction of the department over each case shall be continuing, and it may, from time to time, make such modification or change with respect to former findings, awards, decisions or orders relating thereto, as in its opinion may be just. Source.—
Former
§ 74.

§ 124. **Blank forms.** The commissioner shall prescribe and distribute such blank forms as the administration of this chapter requires, including forms of notices and claims and forms for proving injury, death, medical or other attendance or treatment, employment and wage earnings. Insurance carriers shall constantly keep on hand at their own expense a sufficient supply of such blanks. Source.—
Former
§ 75.

§ 125. **Undertakings.** The commissioner may by regulation provide for the giving of undertakings by all subordinates who are empowered by this chapter to receive and disburse moneys, to be approved as to form by the attorney-general and as to sufficiency by the comptroller. Source.—
New.

§ 126. **Expenses of administering workmen's compensation law.** The commissioner annually as soon as practicable after July first shall ascertain the total amount of expenses incurred by the department during the preceding fiscal year in connection with the administration of the workmen's compensation law. The commissioner shall keep an accurate record of all hearings held and the industrial board, in its discretion, may assess against each insurance carrier five dollars for each adjourned hearing held at the request of the insurance carrier. The fund so created shall be applied toward the total amount of the expenses ascertained as above. If there be any deficiency the commissioner shall thereupon assess upon and collect from each insurance carrier, including the state insurance fund and any county, city, town, village or other political subdivision, failing to secure compensation pursuant to subdivisions one and two of section fifty, the proportion of such expense that the total compensation or payments made by such carrier in such year bore to the total compensation or payments made by all insurance carriers. The amounts so secured shall be transferred to the state treasury to reimburse it for this portion of the expense of administering this chapter. Source.—
Former
§ 77.

§ 127. **Construction.** This chapter shall be read and construed in connection with the labor law. Source.—
New.

§ 128. **Unconstitutional provisions.** If any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. Source.—
Former
§ 118.

Source.—
Former
§ 119.

§ 129. **Actions or causes of action pending.** This act shall not affect any action pending or cause of action existing or which accrued prior to July first, nineteen hundred and twenty-two.

ARTICLE 7

LAWS REPEALED; WHEN TO TAKE EFFECT

Section 140. Laws repealed.

141. When to take effect.

L. 1909,
ch. 36,
art. 14a
(§§ 215-219,
219a-219g),
as added
by L. 1910,
ch. 674,
repealed.

§ 140. **Laws repealed.** Article fourteen-a and sections two hundred and fifteen to two hundred and nineteen-g, both inclusive, of chapter thirty-six of the laws of nineteen hundred and nine, as added by chapter six hundred and seventy-four of the laws of nineteen hundred and ten, are hereby repealed.¹

§ 141. **When to take effect.** This chapter as amended shall take effect July first, nineteen hundred and twenty-two.

CHAPTER 616

AN ACT authorizing the superintendent of public works to remove a portion of the old canal aqueduct over South Chuctanunda creek, in the city of Amsterdam, Montgomery county, and to construct a bridge in place thereof, and making an appropriation therefor.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Removal of
aqueduct
and con-
struction of
bridge
authorized.

City to
maintain
bridge.

Appropriation.

Section 1. The superintendent of public works is hereby authorized to remove a portion of the aqueduct which carried the old Erie canal over the waters of South Chuctanunda creek in the city of Amsterdam, Montgomery county, and to construct a bridge in place thereof, with approaches leading at each end of the proposed structure to both sides of the canal; the work to be done by contract or department forces, whichever method in the judgment of the superintendent of public works seems to be for the best interests of the state. In case any part of the work shall be done by contract, plans and specifications therefor shall be prepared by the state engineer and surveyor. Upon completion of the improvement herein authorized, the said bridge and its approaches shall be maintained by the city of Amsterdam.

§ 2. For the purpose of carrying out the provisions of section one of this act, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be paid to the superintendent of public works by the state treasurer on the warrant of the comptroller.

§ 3. This act shall take effect immediately.

¹ Art. 14a (§§ 215-219, 219a-219g) previously repealed by L. 1913, ch. 816; L. 1914, ch. 41; L. 1921, ch. 50.

CHAPTER 617

AN ACT to amend chapter eight hundred and six of the laws of nineteen hundred and twenty, entitled "An act to create a commission to represent the state of New York at hearings before the international joint commission on boundary waters, created under and by virtue of article nine of the convention concluded on January eleventh, nineteen hundred and nine, between the United States and the Dominion of Canada, and making an appropriation therefor," in relation to the extent of the powers of the commission, and making an appropriation therefor.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two of chapter eight hundred and six of the laws of nineteen hundred and twenty, entitled "An act to create a commission to represent the state of New York at hearings before the international joint commission on boundary waters created under and by virtue of article nine of the convention concluded on January eleventh, nineteen hundred and nine, between the United States and the Dominion of Canada, and making an appropriation therefor," as amended by chapter three hundred and thirty-nine of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

L. 1920,
ch. 806,
§ 2, as
amended by
L. 1921,
ch. 339,
amended.

§ 2. Such commission is hereby authorized and shall have power to represent the state of New York at hearings before the international joint commission on boundary waters created under and by virtue of article nine of the convention concluded on January eleventh, nineteen hundred and nine, between the United States and the Dominion of Canada, which commission by section nine of the rivers and harbors act of the congress of the United States, approved on March second, nineteen hundred and nineteen, "is requested to investigate what further improvement of the Saint Lawrence river between Montreal and Lake Ontario is necessary to make the same navigable for ocean-going vessels, together with the estimated cost thereof and to report to the government of the Dominion of Canada and to the congress of the United States with its recommendations for co-operation by the United States with the Dominion of Canada in the improvement of said river," and which international joint commission on boundary waters was also authorized by the government of the United States and the government of the Dominion of Canada to investigate and to report upon "what traffic, both incoming and outgoing, in kind and quantity, is likely to be carried upon the proposed route both at its inception and in the future, consideration to be given not only to present conditions, but to probable changes therein resulting from the development of industrial activities due to availability of large quantities of hydraulic power" according to four different general schemes or methods of improvement as follows: (a) By means of locks and navigation dams in the river. (b) By means

Commission authorized to represent state at hearings.

of locks and side canals. (c) By a combination of the two preceding methods. (d) By means of locks and power dams.

And the commissioner* hereby created is also hereby authorized and empowered to collate such facts and present such arguments to said international joint commission as to the commission hereby created may seem proper in relation to the said proposed Saint Lawrence ship canal project and also to represent the state of New York in conference with the representatives of the governments of other states of the United States and with the congress of the United States, their commissions and committees, having under consideration said proposed Saint Lawrence ship canal project and matters incidental thereto hereinbefore stated.

Further
powers.

Said commission shall have power to hold sessions within and without the state of New York and to attend the hearings of said international joint commission and to meet and to confer with the commissions, committees or other representatives of other states of the United States and to appear before the committees of the congress of the United States in opposition to said proposed Saint Lawrence ship canal project and to take and prosecute such action or proceeding in the name of the people of the state of New York in the courts of the state of New York, or of the United States as the commission created by said chapter eight hundred and six of the laws of nineteen hundred and twenty may consider and determine to be necessary to safeguard and protect the rights and interests of the people of the state of New York in all such waters and in the lands under and adjacent to the waters of the Saint Lawrence river as are under the sovereign control of the state of New York southerly of the international boundary. All necessary expenses incurred by the members of said commission in the performance of their duties or for the other purposes authorized by said chapter eight hundred and six of the laws of nineteen hundred and twenty, or by this act, shall be paid from the appropriation made by said chapter eight hundred and six of the laws of nineteen hundred and twenty, or by this act. At the conclusion of its labors said commission shall make a report of its proceedings to the legislature. ¹ The commission may employ counsel.

Expenses,
how paid.

Report.
Counsel.

Appropriation.

§ 3.² The sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary, is hereby appropriated for the uses and expenses of the commission created by chapter eight hundred and six of the laws of nineteen hundred and twenty. The moneys appropriated shall be paid out by the state treasurer on the warrant of the comptroller upon the certificate of the chairman of such commission.

§ 4.³ This act shall take effect immediately.

* So in original. [Evidently should be "commission."]

¹ Following sentence new.

² Should be "§ 2."

³ Should be "§ 3."

CHAPTER 618

AN ACT making an appropriation for the purpose of defraying the personal expenses and the expenses for legal services incurred by Abraham L. Katlin, in the contest of his election in the eleventh senatorial district.

Became a law April 13, 1922, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of fifteen hundred dollars (\$1,500), or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, for the purpose of defraying the personal expenses and the expenses for legal services incurred by Abraham L. Katlin in the contest made by Daniel J. Carroll of the election of the said Abraham L. Katlin as senator from the eleventh senatorial district for the term of nineteen hundred and twenty-one and nineteen hundred and twenty-two. Such sum shall be paid by the treasurer on the warrant and audit of the comptroller.

§ 2. This act shall take effect immediately.

CHAPTER 619

AN ACT making an appropriation to defray the expenses incurred for legal services by Daniel J. Carroll in contesting the election for senator in the eleventh senatorial district.

Became a law April 13, 1922, with the approval of the Governor. Passed by a two-thirds vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The sum of fifteen hundred dollars (\$1,500), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to defray the expenses incurred for legal services by Daniel J. Carroll in contesting the election of Abraham I.* Katlin as senator from the eleventh senatorial district for the term nineteen hundred and twenty-one and nineteen hundred and twenty-two, such services having been rendered by John T. Dooling. Such sum shall be paid out by the treasurer on the warrant of the comptroller and on vouchers of the chairman of the committee on privileges and elections of the senate.

§ 2. This act shall take effect immediately.

* So in original. [Should be "L".]

CHAPTER 620

AN ACT to amend the banking law, in relation to information to be given by banks, savings banks and trust companies to local authorities having charge of the administration of laws relating to the poor.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
art. 1,
title
amended.

Section 1. The title of article one of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

SHORT TITLE; DEFINITIONS; MISCELLANEOUS PROVISIONS.¹

§ 3 added.

§ 2. Such chapter is hereby amended by inserting therein at the end of article one a new section, to be section three, to read as follows:²

§ 3. Information to be given to poor authorities by banks, savings banks and trust companies. If requested by an authorized representative of the department of charities, or similar department, of any city, or by the authorities charged with the duty of administering laws relating to the poor in any town or county, the officials of a bank, savings bank or trust company shall furnish to such city, county or town authorities information relating to facts of which such officials of the bank, savings bank or trust company shall have cognizance as to whether or not an applicant for relief, named in such request, or the husband or wife of such applicant, is a poor person, and as to whether or not such applicant, his wife or her husband, has funds, securities or other personal property on deposit or in the custody of such bank, savings bank or trust company.

§ 3. This act shall take effect immediately.

CHAPTER 621

AN ACT to amend the banking law, in relation to authorizing trust companies and savings banks to invest in federal farm loan bonds.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
§ 193, as
amended by
L. 1917,
ch. 406,
amended.

Section 1. Section one hundred and ninety-three of chapter three hundred and sixty-nine of the laws of nineteen hundred

¹ Title formerly read: "Short title and definitions."

² This § 3 is added in addition to § 3 found in the original act.

and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," as amended by chapter four hundred and five of the laws of nineteen hundred and seventeen, is hereby amended to read as follows:

§ 193. Investments of capital, surplus, undivided profits and deposits. The capital of every trust company shall be invested in bonds and mortgages on real property in this state, otherwise unencumbered, not exceeding sixty per centum of the value thereof, provided that the title to such real property shall be evidenced by an abstract of ¹ title and opinion or certificate of counsel thereon, or by a certificate of title to said property issued by the registrar of the county in which the property is situated under the provisions of article twelve of the real property law, otherwise known as the Torrens land title registration law, as amended, or guaranteed under a policy of title insurance issued by a corporation duly incorporated under and by virtue of the laws of this state, and by said laws duly authorized to guarantee or insure titles to real property in this state, or in the stocks, bonds, or other obligations of this state, or of the United States, or of any county or incorporated city of this state, or in farm loan bonds of the first land bank district as created pursuant to the federal farm loan act, approved July seventeenth, nineteen hundred and sixteen,² duly authorized by law to be issued. Stocks or bonds constituting a part of the lawful investment of capital of any such corporation shall not be valued upon its books or entered in its reports to the superintendent of banks at a higher price or value than their investment value as determined by amortization, after providing in a manner approved by the superintendent of banks for the gradual extinction of premiums or discounts on all such securities so as to bring them to par at maturity.

§ 2. Section two hundred and thirty-nine of such chapter is hereby amended by inserting therein, after subdivision ten, a new subdivision, to be subdivision ten-a, to read as follows:

10-a. Farm loan bonds issued by the federal land bank of the first land bank district as created pursuant to the federal farm loan act, approved July seventeenth, nineteen hundred and sixteen.

Savings
banks may
invest in
farm loan
bonds.

§ 3. This act shall take effect immediately.

¹ Word "of" substituted for word "or."

² Words "or in farm loan bonds of the first land bank district as created pursuant to the federal farm loan act, approved July seventeenth, nineteen hundred and sixteen," new.

CHAPTER 622

AN ACT to amend the banking law, in relation to general powers of investment companies.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 7
added to
L. 1914,
ch. 369,
§ 293.

Section 1. Section two hundred and ninety-three of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended by adding thereto, after subdivision six, as thus renumbered by chapter one hundred and thirty-nine of the laws of nineteen hundred and fifteen, a new subdivision, to be subdivision seven, to read as follows:

7. To purchase, invest in, hold and sell stocks of any corporation engaged in business of the same general character as such investment company, or engaged in business incidental to the business conducted by such investment company, to an amount in any one such corporation not in excess of ten per centum of the capital of such investment company and to an amount in all such corporations not in excess of thirty per centum of the capital of such investment company; provided that the purchasing and holding of such stock is duly authorized by a resolution of the board of directors of such investment company.

§ 2. This act shall take effect immediately.

CHAPTER 623

AN ACT to amend the banking law, in relation to rate of interest of investment companies.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1914,
ch. 369,
§ 114
amended.

Section 1. Section one hundred and fourteen of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen, entitled "An act in relation to banking corporations, and individuals, partnerships, unincorporated associations and corporations under the supervision of the banking department, constituting chapter two of the consolidated laws," is hereby amended to read as follows:

§ 114. Rate of interest; effect of usury. Every bank and every private and individual banker and every investment com-

pany organized under article seven of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen as last amended by chapter two hundred and twenty-seven of the laws of nineteen hundred and seventeen,¹ may take, receive, reserve and charge on every loan and discount made, or upon any note, bill of exchange or other evidence of debt, interest at the rate of six per centum per annum; and such interest may be taken in advance, reckoning the days for which the note, bill or evidence of debt has to run. The knowingly taking, receiving, reserving or charging a greater rate of interest shall be held and adjudged a forfeiture of the entire interest which the note, bill of exchange or other evidence of debt carries with it, or which has been agreed to be paid thereon. If a greater rate of interest has been paid, the person paying the same or his legal representatives may recover twice the entire amount of the interest thus paid from the bank or banker or investment company² taking or receiving the same, if such action is brought within two years from the time the excess of interest is taken. The purchase, discount or sale of a bona fide bill of exchange, note or other evidence of debt payable at another place than the place of such purchase, discount or sale at not more than the current rate of exchange for sight draft, or a reasonable charge for the collection of the same, in addition to the interest, shall not be considered as taking or receiving a greater rate of interest than six per centum per annum. The true intent and meaning of this section is to place and continue such banks and bankers and investment companies³ on an equality in the particulars herein referred to with the national banks organized under the act of congress entitled "An act to provide a national currency, secured by pledges of United States bonds, and to provide for the circulation and redemption thereof," approved June the third, eighteen hundred and sixty-four.

§ 2. This act shall take effect immediately.

CHAPTER 624

AN ACT to amend the civil practice act, in relation to the determination of the rights of parties to a controversy.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and ninety-three of the civil practice act is hereby amended to read as follows: § 193
amended.

¹ Words "and every investment company organized under article seven of chapter three hundred and sixty-nine of the laws of nineteen hundred and fourteen as last amended by chapter two hundred and twenty-seven of the laws of nineteen hundred and seventeen," new.

² Words "or investment company" new.

³ Words "and investment companies" new.

§ 193. Determination of rights of parties before the court. The court may determine the controversy as between the parties before it where it can do so without prejudice to the rights of others or by saving their rights; but where a complete determination of the controversy cannot be had without the presence of other parties the court must direct them to be brought in. ¹ And where one of the parties to an action claims that a person not a party thereto is or will be liable wholly or in part, for the claim made against him in the action, the court on application of such party must direct such person to be brought in and direct the service upon such person of the pleading, alleging the claim against him. Where a person not a party to the action has an interest in the subject thereof, or in real property the title to which may in any manner be affected by the judgment, or in real property for injury to which the complaint demands relief, and makes application to the court to be made a party, it must direct him to be brought in by the proper amendment. ¹ The controversy between the defendants shall not delay a judgment to which the plaintiff is entitled, unless the court otherwise directs.

In effect
Sept. 1,
1922.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 625

AN ACT to amend the civil practice act, in relation to the right of certain parties to provisional remedies.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 824
amended.

Section 1. Section eight hundred and twenty-four of the civil practice act is hereby amended to read as follows:

§ 824. Counterclaim; or claim by defendant against codefendant;^{1a} right of defendant to an order or warrant. Where the defendant interposes a counterclaim, or pleads a claim against a codefendant,² and thereupon demands an affirmative judgment against the plaintiff, or against such codefendant,³ his right to such an order or warrant is the same as in an action brought by him against the plaintiff or against such codefendant,³ for the cause of action stated in the counterclaim, or pleading,⁴ and demanding the same judgment. For the purpose of applying to such a case the provisions of this act, or the provisions of a rule which does not in terms apply only to a plaintiff, the defendant is deemed the plaintiff, and the plaintiff in* such codefendant⁵ is deemed the

* So in original. [Evidently should be "or".]

¹ Following sentence new.

^{1a} Words "or claim by defendant against codefendant" new.

² Words "or pleads a claim against a codefendant" new.

³ Words "or against such codefendant" new.

⁴ Words "or pleading" new.

⁵ Words "in such codefendant" new.

defendant, and the counterclaim or claim⁶ so set forth in the answer or pleading⁷ is deemed the complaint.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two.

In effect
Sept. 1,
1922.

CHAPTER 626

AN ACT to amend the civil practice act, in relation to fees of sheriff.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen hundred and fifty-eight¹ of the civil practice act is hereby amended to read as follows: § 1558
amended.

§ 1558. **Fees of sheriff.** A sheriff is entitled for the services specified in this section to the following fees:²

1. For serving a summons with or without either a copy of the complaint, or a notice stating the sum of money for which judgment will be taken or a notice of no personal claim, one dollar and fifty cents; or for serving or executing an order of arrest, or any other mandate, for the service or execution of which no other fee is specially prescribed by law, except a subpoena, two dollars; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be four dollars for each person served or as to whom it is executed; and for necessary traveling to serve or execute the same, ten cents for each mile traveled, going and returning; the traveling fees to be computed from the court house of the county; or, if there are two or more court houses, from that nearest to the place of service or execution. But where two or more mandates are delivered to a sheriff, to be served upon or executed against one person, at one time, in one action or special proceeding; or where a mandate is served upon or executed against two or more persons, in one action or special proceeding, and in the course of one journey; the sheriff is entitled, in all, to ten cents, only for each mile traveled.

2. For levying a warrant of attachment against the property of a defendant, or for executing a requisition to replevy one or more chattels, two dollars; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be five dollars; and, also, such additional compensation for his trouble and expenses in taking possession of and preserving the property as the judge issuing the warrant, or in case of a replevin as the court or a judge thereof, allows; and the judge or court may make an order requiring the party liable therefor to pay the same to the sheriff. For making and filing a description of real property,

⁶ Words "or claim" new.

⁷ Words "or pleading" new.

²As renumbered by L. 1921, ch. 199.

³Section materially amended.

or an inventory of personal property attached, fifty cents for each folio; for each necessary copy thereof, twelve cents for each folio; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be twenty cents for each folio; together with such compensation to the appraisers as the judge issuing the warrant allows, not exceeding three dollars to each appraiser for each day actually employed. For advertising during the pendency of the action, personal property attached, the same fees as are allowed to a sheriff for advertising personal property for sale by virtue of an execution. If the action is settled either before or after judgment, the sheriff is entitled to poundage upon the value of the property attached, not exceeding the sum at which the settlement is made. For mileage upon an attachment or to execute a requisition; ten cents for each mile, going and returning.

3. For a copy, necessarily made by him, of a summons or other mandate, or of a complaint, affidavit or other paper served by him, where no fee therefor is specially prescribed by law, twenty cents for each folio.

4. For notifying jurors to attend a trial term of a court of record, fifty cents for each cause placed upon the calendar for trial by jury, to be paid by the party first putting the cause on the calendar for that term. But the sheriff is not entitled to more than one dollar and fifty cents for calendar fees in one action. The clerk shall not put a cause upon the calendar, for trial by a jury, until the fee specified in this subdivision is paid to him for the use of the sheriff. And where the cause is tried at a subsequent term without a new note of issue, the party moving the trial must pay to the clerk for the use of the sheriff the calendar fee or fees remaining unpaid. No sheriff who receives an annual salary in whole or in part for his services shall be entitled to the fees provided by this subdivision, and in all counties where the sheriff receives such annual salary, the clerk shall place all causes upon the calendar for trial without the payment or collection of any fee therefor.

5. For notifying jurors drawn to attend upon a writ of inquiry, or to try the validity of a claim to personal property seized by virtue of a warrant of attachment or an execution, or in obedience to a precept issued by commissioners appointed to inquire concerning the incompetency of a person to manage himself or his affairs in consequence of idiocy, lunacy or habitual drunkenness, or in any case not provided for in the last preceding subdivision of this section, including the making and return of the inquisition when required, for each juror notified, fifty cents for each juror notified.* For attending a jury when required, in such a case, three dollars; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be five dollars.

6. For receiving an execution against property, entering it in his books, searching for property, and postage on the return when made through the postoffice, one dollar; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be

* So in original. ["For each juror notified" repeated.]

one dollar and fifty cents. If required by the sheriff, that fee, together with his fee for returning the execution, must be paid, by the person in whose behalf the execution is issued, at the time when it is delivered to the sheriff, who is not bound to execute it unless the fee is so paid. For mileage upon an execution, for each mile, going and returning, ten cents to be computed as prescribed in subdivision one of this section. For mileage, to make a demand, upon an execution and where the collection cannot be enforced through the disposal of property, secret or otherwise, the sheriff is entitled to his travel fee as provided in this subdivision, and the party at whose instance the execution is placed in the sheriff's hands must pay such fees to the sheriff upon demand.

7. For collecting money by virtue of an execution, a warrant of attachment, or an attachment for the payment of money in an action or special proceeding; or by virtue of a warrant for the collection of money, issued by the comptroller or by a county treasurer; in any county, except New York, Kings, Bronx, Queens, Richmond or Westchester, five per centum upon the sum collected, not exceeding two hundred and fifty dollars, and three per centum upon the residue of the sum collected; and in either of the counties of New York, Kings, Bronx, Queens, and Richmond, five per centum upon the first one thousand dollars collected, two and one-half per centum on the next nine thousand collected, and one per centum on all sums over and above ten thousand dollars; in the county of Westchester, two and one-half per centum upon the sum collected not exceeding two hundred and fifty dollars, and one and one-quarter per centum upon the residue of the sum collected; and also, where an execution is stayed after a levy, by order of the court or otherwise, or where a levy is upon a live animal or speedily perishable property, such additional compensation for his trouble and expenses in taking care of and preserving the property as the court or a judge thereof allows. Where a settlement is made after a levy by virtue of an execution, the sheriff is entitled to poundage upon the value of the property levied upon, not exceeding the sum at which the settlement is made, and to the additional compensation, if any, provided for in this subdivision.

8. For advertising real or personal property for sale by virtue of an execution, warrant of attachment, or other warrants specified in the last preceding subdivision, two dollars, unless it is stayed or settled before sale; and in that case, one dollar.

9. For making duplicate certificates of the sale of real property by virtue of an execution, twenty-five cents for each folio. For drawing and executing a conveyance upon a sale of real property, five dollars to be paid by the grantee. The sheriff is also entitled to the printer's fees, as prescribed by law, paid by him for the publication, not more than six weeks, of a notice of the sale of real property, and he may require the party directing the sale to advance the printer's fees, in which case he must repay the same out of the proceeds. Where the notice is published more than six weeks, or the sale is postponed, the expense of continuing the publication, or of publishing the notice of postponement, must be paid by the person requesting it. Where two or more execu-

tions against the property of one judgment debtor are in the hands of the sheriff at the time when the property is first advertised, the sheriff is entitled to printer's fees upon only one execution, and he must elect upon which execution he will receive the same.

10. For returning any mandate which he is required by law to return, twenty-five cents. For a certified copy of an execution, and of the return of satisfaction thereupon, fifty cents.

11. For posting and publishing the notice of sale, selling, and conveying real property, in pursuance of a direction contained in a judgment, the like fees as for the same services upon the sale of real property by virtue of an execution; but where real property is sold under a judgment in an action to foreclose a mortgage, the sheriff's entire compensation cannot exceed fifty dollars.

12. For taking a bond for the liberties of the jail, one dollar. For taking any other bonds or any undertaking which he is authorized to take, one dollar, and the notary's fees to any affidavit or acknowledgments. For a certified copy of such a bond or undertaking, fifty cents.

13. For executing any mandate requiring him to put a person into possession of real property, other than a warrant specified in subdivision eighteen of this section, and removing the person in possession, three dollars; except that in the counties of New York, Kings, Bronx, Queens and Richmond, it shall be five dollars, and, also, to such additional compensation for his trouble, and expenses, if any, which he may have incurred in removing the person in possession and the said person's property, from the real property specified in such mandate, and the same travel fees as upon the service of a summons.

14. For each person committed to or discharged from prison, in an action or a special proceeding, one dollar, to be paid by the person at whose instance he is imprisoned. For attending before an officer for the purpose of surrendering a prisoner, or receiving into custody a prisoner surrendered, in exoneration of his bail, including all his services upon such a surrender or receipt, one dollar.

15. For attending a view, two dollars for each day, and for traveling, going and returning ten cents for each mile traveled.

16. For bringing up a prisoner upon a writ of habeas corpus to inquire into the cause of detention, three dollars; and for traveling to and from the jail, fifteen cents for each mile. For bringing up a prisoner upon any order substituted by this act for any other writ of habeas corpus, the same fees; and for attending the court or judge thereupon, one dollar for each day. The sheriff is entitled, in addition to the sums specified in this subdivision, to his actual and necessary expenses.

17. For any services which may be rendered by a constable, other than those specially provided for in this section, the same fees as are allowed by law to a constable for those services.

18. In all counties where a levy has been made under a warrant of attachment and the warrant of attachment is vacated or set aside by order of the court, the sheriff is entitled to poundage

upon the value of the property attached not exceeding the amount specified in the warrant, and such additional compensation for his trouble and expense in taking possession and preserving the property as the judge issuing the warrant allows, and the judge or court may make an order requiring the party at whose instance the attachment is issued to pay the same to the sheriff; and when said attachment has been otherwise discharged by order of the court, he shall be entitled to the poundage aforesaid and to retain the property levied upon until his fees and poundage are paid by the party at whose instance the attachment is discharged.

19. In all counties where an execution has been vacated or set aside, the sheriff is entitled to poundage upon the value of the property levied upon not exceeding the amount specified in the execution, and to his fees, and to such additional compensation for his trouble and expenses in taking possession and preserving the property, if any, and the judge or court may make an order requiring the party liable therefor to pay the same to the sheriff.

§ 2. This act shall take effect immediately.

CHAPTER 627

AN ACT authorizing the board of supervisors of Onondaga county to audit and pay the claim of John Whalen against the county for personal injuries alleged to have been sustained by him in the exercise of his official duties as keeper of the Onondaga penitentiary by being attacked and injured while transferring a prisoner to Matteawan State Hospital.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of the county of Onondaga, or other auditing officer or body of such county, is hereby authorized to audit the claim of John Whalen against the county in a sum not exceeding eight hundred dollars for personal injuries alleged to have been sustained by him while in the exercise of his official duties as keeper of the Onondaga penitentiary in the year nineteen hundred and seven, by being attacked and injured while transferring a prisoner from the Onondaga penitentiary to Matteawan State Hospital. Such claim, after audit as herein provided, shall constitute a legal and valid claim against the county of Onondaga and the board of supervisors may appropriate necessary county money for the payment of the same.

§ 2. This act shall take effect immediately.

CHAPTER 628

AN ACT to amend the domestic relations law, in relation to the adoption of children.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 19,
§ 111,
subd. 3, as
amended by
L. 1921,
ch. 655,
amended.

Consent to
adoption
of minor.

Section 1. Subdivision three of section one hundred and eleven of chapter nineteen of the laws of nineteen hundred and nine, entitled "An act relating to domestic relations, constituting chapter fourteen of the consolidated laws," as last amended by chapter six hundred and fifty-five of laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:²

3. Of the parents or surviving parent of a legitimate child; and of the mother of an illegitimate child, or of the superintendent of an incorporated hospital approved and subject to visitation, inspection and supervision of the state board of charities and which said hospital has been continuously operated in this state for a period of at least five years last past, in whose care or charge an illegitimate child has been surrendered or released by its mother for the purposes of placing out in a family home, for placement in a free home, adoption or otherwise by an instrument in writing duly acknowledged and certified as conveyances are required to be certified to entitle them to record in a county of this state, which instrument shall be filed with the consent of the superintendent of such hospital; the superintendent of a hospital accepting a child by surrender or release or by any other agreement shall report such acceptance to, and in the manner required by the state board of charities; the superintendent of a hospital authorized by law under this article to accept children and who shall place out a child in a family home by adoption, or otherwise, or and who places a child in any institution or and makes any other disposition of the child must report such disposition to the state board of charities in the manner as required by law, but the consent of a parent who has abandoned the child, or is deprived of civil rights, or divorced because of his or her adultery or cruelty, or adjudged to be insane, or to be an habitual drunkard, or judicially deprived of the custody of the child on account of cruelty or neglect, is unnecessary; excepting, however, that where such parents are divorced because of his or her adultery or cruelty, notice shall be given to both the parents personally or in such manner as may be directed by a judge of a court of competent jurisdiction.

§ 2. This act shall take effect immediately.

¹ Previously amended by L. 1913, ch. 569.

² Subd. 3 materially amended.

CHAPTER 629

AN ACT to amend the education law, in relation to the Emory A. Chase Memorial Library at Catskill.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," as amended by chapter one hundred and forty of the laws of nineteen hundred and ten, is hereby amended by inserting therein, at the end of article forty-five, a new section, to be section eleven hundred and eighty-four-b, to read as follows:

§ 1184b
added to
L. 1909,
ch. 21
(revision of
L. 1910,
ch. 140).

§ 1184-b. **Emory A. Chase Memorial Library at Catskill.** There is hereby established a law library in and for the third judicial district, at Catskill, New York, which shall be designated and known as the "Emory A. Chase Memorial Library." Said library shall be under the care and management of a board of three trustees who shall be members of the Greene county bar and who shall be selected by the majority of the justices of the supreme court elected in the third judicial district. Such trustees shall have power to receive by gift, devise or bequest any property given or conveyed for the purposes of a law library. The foundation of such law library shall be the law books and other library property now belonging to the county of Greene when the same shall be conveyed to such trustees by such county. It shall be the duty of such trustees to hold and manage the property of such library and make rules and regulations for the management and protection of the same, and to prescribe penalties for the violation thereof. They may sue for and recover such penalties and maintain actions for any injuries to such library or its property. They may procure proper books, furnishings, provide rooms, fuel and lights for such library and defray all incidental expenses for the care and management of same, as well as the salary of the librarian. The amounts required therefor shall be paid by the treasurer of the county of Greene, upon the certificate of a justice of the supreme court for the third judicial district, out of the moneys raised in such county for court expenses, which amounts shall be a county charge upon said county of Greene. The librarian shall be appointed by such board of trustees and shall hold office during their pleasure. Such trustees shall fix the salary of such librarian which shall not exceed six hundred dollars per annum and such salary shall be paid in equal monthly installments.

§ 2. This act shall take effect immediately.

CHAPTER 630

AN ACT to authorize the use for village purposes of certain unexpended funds of the village of Endicott.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Notwithstanding the provisions of any other law, general, special or local, the trustees of the village of Endicott, in the county of Broome, are hereby authorized and empowered to appropriate and expend for any village purpose they may, by resolution duly adopted, deem proper or expedient, such unexpended moneys remaining in a fund of fifteen thousand dollars raised and collected pursuant to a proposition adopted by the authorized electors of such village for the purpose of improving certain lands in such village as a park or memorial to certain veterans or survivors of the great war. Such moneys shall be expended in the same manner and under similar restrictions as are other funds for like purposes.

§ 2. This act shall take effect immediately.

CHAPTER 631

AN ACT to amend the election law, in relation to preparation of voting machines.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and fifty-one of an act of the legislature of the year nineteen hundred and twenty-two, entitled "An act in relation to the elections, constituting chapter seventeen of the consolidated laws," is hereby amended to read as follows:

§ 251. **Preparation of voting machines by boards of elections.** It shall be the duty of the board of elections of each county and in the city of New York, in which voting machines are to be used, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, to examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered metal seal.

The board of elections may appoint as many custodians of voting machines as may be necessary for the proper preparation

of the machines.¹ Such custodian or custodians shall, under the direction of the board of elections, have charge of and represent the board of elections during the preparation of the voting machines and serve at the pleasure of the board of elections. Before preparing the voting machines for any election, written notices shall be mailed to the chairmen of the county committees of the two parties entitled to representation on a board of inspectors of election stating the times when and place or places where the machines will be prepared; at which times and place or places, one representative of each of such political parties, certified by the respective chairmen of the county committees of such parties, shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. The custodian or custodians of voting machines and the party representatives shall take the constitutional oath of office, which shall be filed in the office of the board of elections. It shall be the duty of such party representatives to be present at the preparation of the voting machines for election and see that the machines are properly prepared and that all registering counters are set at zero (000). When the machines have been prepared for election, it shall be the duty of such custodian or custodians and party representatives, to make a certificate in writing which shall be filed in the office of the board of elections, stating the number of machines, whether or not all the machines are set at zero (000), the number registered on the protective counter, if one is provided, and the number on the metal seal with which the machine is sealed.

Such custodians and party representatives shall perform their duties under the direction of the board of elections. No custodian or other employee of the board of elections shall in any way prevent free access and examination of all voting machines which are to be used at the election, by the duly appointed party representatives, and the board of elections and its employees shall afford the party representatives every facility for the examination of all registering counters, protective counters and public counters of each and every voting machine.

It shall be the duty of the board or officer charged by law with the duty of equipping the polling places to cause a voting machine or machines, prepared as above provided to be delivered, subject to the supervision of the board of elections, at each of the respective polling places in which they are to be used, at least one hour before the time set for the opening of the polls. After the machine has been delivered, it shall be set up in the proper manner for use at the election, and it shall be the duty of the local authorities to provide ample protection against molestation and injury to the machine. Every voting machine shall be furnished with a lantern or a proper substitute for one, which shall give sufficient light to enable voters while in the

¹ Remainder of sentence omitted which read: " , except that there may be only one custodian for each one hundred voting machines or major fraction thereof."

booth to read the ballot labels, and suitable for the use of election officers in examining the counters. The lantern shall be prepared and in good order for use before the opening of the polls. All voting machines used in any election shall be provided with a screen and hood or curtain which shall be so made and adjusted as to completely conceal the voter and his action while voting. The custodian or custodians of voting machines and party representatives shall be paid for their services such an amount as shall be fixed by the board of elections, which shall not, however, exceed the compensation per day of inspectors of election at a general election.

§ 2. This act shall take effect immediately.

CHAPTER 632

AN ACT to amend the executive law, in relation to the powers and duties of the attorney-general in the enforcement of the provisions of the election law and the provisions of the penal law relating to crimes against the elective franchise, and making an appropriation therefor.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 66a
added to
L. 1909,
ch. 22.

Section 1. Chapter twenty-three of the laws of nineteen hundred and nine, constituting chapter eighteen of the consolidated laws, known as the executive law, is hereby amended by inserting therein, after section sixty-six, a new section, to be section sixty-six-a, to read as follows:

§ 66-a. Powers and duties of attorney-general respecting election and crimes against the elective franchise. Authority is hereby conferred upon the attorney-general to appoint a special deputy to take charge of the investigation of cases arising under the election law, and under the provisions of the penal law relating to crimes against the elective franchise, and to appoint such additional special deputies, investigators and employees as he may deem necessary, and fix their compensation, within the limits of the appropriation available therefor, and assign them to any election district or districts for the purpose of enforcing the provisions of the election law, and of the penal law relating to crimes against the elective franchise. Moneys appropriated for carrying out the provisions of this section shall be paid out by the state treasurer on the warrant of the comptroller upon the certificate of the attorney-general.

Such special deputies and investigators shall, when directed by the attorney-general, investigate qualifications of persons to register or vote, violations of the election law and violations of the provisions of the penal law relating to crimes against the elective franchise. Any such special deputy or investigator may:

1. Visit and inspect any house, dwelling, building, inn, lodging-

house, boarding-house, rooming-house or hotel and interrogate any inmate, house-dweller, keeper, caretaker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

2. Inspect and copy any books, records, papers or documents relating to or affecting the election or the registration of voters, or require the board or officer in charge thereof to furnish a copy of any such record, paper or document without charge.

3. Require any lodging-house, boarding-house or rooming-house keeper, landlord or proprietor to exhibit his register of the lodgers therein at any time to such deputy or investigator.

4. Procure warrants of arrest and cause to be taken into custody the person or persons named in such process.

5. Go within the guard-rail at any polling place at any election.

Any such special deputy or investigator also shall have all of the powers of a peace officer.

Any person who neglects or refuses to furnish any information required by the election law or authorized herein, or to exhibit records, papers or documents herein authorized to be inspected or which are required to be exhibited, shall be guilty of a misdemeanor.

The attorney-general or any of his deputies, special deputies or investigators shall have power to issue subpoenas, or subpoenas duces tecum, administer oaths and examine witnesses under oath, for the purpose of investigating any matter within the jurisdiction herein prescribed for the purpose of aiding him in enforcing the provisions of the election law, or the provisions of the penal law, relating to crimes against the elective franchise, such subpoenas to be issued in the name of the attorney-general. Such subpoenas may be served by any deputy or special deputy or by any police or peace officer.

Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the attorney-general or who shall refuse to testify under or in pursuance thereof shall be guilty of a misdemeanor.

Any such special deputy or investigator may call upon any member of the police, sheriff, deputy sheriff, constable or other public officer, or any person, to assist him in carrying out the provisions of this section. Any such officer or person who shall fail to render the assistance so demanded or who shall wilfully hinder or delay such special deputy or investigator in the exercise of any power or the performance of any duty shall be guilty of a misdemeanor.

§ 2. The sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, payable out of any moneys in the treasury not otherwise appropriated, is hereby appropriated to carry out the provisions of section sixty-six-a of the executive law as added by this act.

Appropriation.

§ 3. This act shall take effect immediately.

CHAPTER 633

AN ACT to amend the farms and markets law, in relation to supervisors and other employees of the department of public markets of the various cities.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 260a
added to
L. 1922,
ch. 48.

Section 1. Chapter forty-eight of the laws of nineteen hundred and twenty-two, entitled "An act in relation to farms and markets, constituting chapter sixty-nine of the consolidated laws," is hereby amended by inserting therein a new section, to be section two hundred and sixty-a, to read as follows:

§ 260-a. **Appointment of supervisors.** The commissioner of public markets shall have the power to appoint supervisors, assistant supervisors and such other employees as he may deem advisable to supervise the sale of market produce from push carts and other vehicles in open air markets in such city. Such supervisors, assistant supervisors and other employees shall be appointed from lists to be furnished by the municipal service commission after competitive examinations for such positions pursuant to the civil service law. Such commission shall provide for and hold such examinations forthwith. Persons now holding such positions shall hold office until such time as such lists shall be completed and such appointments made therefrom. Such appointees shall receive such compensation as shall be within the appropriations made therefor by the appropriating body of such city. The powers and duties of such supervisors, assistant supervisors and employees shall be prescribed by the commissioner of public markets. No vendor shall conduct business in any such open air market unless he first receive a permit from the department of public markets. Such permit shall be issued by the commissioner for such fee as the commissioner deems proper not to exceed the sum of one dollar per week for a vehicle.

§ 2. This act shall take effect immediately.

CHAPTER 634

AN ACT to amend the highway law, in relation to the lighting of public highways or bridges by counties.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 345
added to
L. 1909,
ch. 30.

Section 1. Chapter thirty of the laws of nineteen hundred and nine, entitled "An act relating to highways, constituting chapter twenty-five of the consolidated laws," is hereby amended by add-

ing at the end of article twelve a new section, to be section three hundred and forty-five, to read as follows:

§ 345. **Lighting of public highways or bridges.** The board of supervisors of any county, subject to the approval of the state commissioner of highways, may from time to time provide for lighting public highways, or portions thereof, or bridges, located in such county outside of cities and villages. The initial action of the board shall be in the form of a proposal for submission to the commissioner. The highways, or portions thereof, or bridges to be lighted, and the manner of lighting, shall be set forth in such proposal. Such proposal shall be embodied in a resolution. The lighting of one or more of such highways, or portions thereof, or bridges may be proposed in a single resolution. The board may provide for such lighting if its proposal be so approved or, if modifications be suggested by the commissioner, may adopt such modifications and provide for such lighting in conformity therewith. The expense of installing, maintaining and caring for such lights shall be a county charge, and the moneys therefor shall be provided and appropriated in the same manner as for other county expenses. The furnishing of light under this section may be provided for by contract or otherwise, but nothing herein shall be deemed to authorize the board to acquire, construct or establish a lighting plant for such purposes. The installation of lights, fixtures and connections shall be done under the supervision of the county superintendent of highways. The board may provide for the care of such lights in such manner as it may deem proper. The board may, in its discretion, at any time discontinue the lighting of any highway, or portion thereof, or bridge provided for under this section.

§ 2. This act shall take effect immediately.

CHAPTER 635

AN ACT to incorporate the city of Long Beach.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHARTER OF THE CITY OF LONG BEACH.

- Article 1. Incorporation; boundaries; definitions (§§ 1-4).*
2. City officers (§§ 8-17).
3. City officers; their general powers and duties (§§ 20-26).
4. Police department (§§ 44-64).
5. City council (§§ 70-97).
6. Assessment; levy; collection of taxes (§§ 100-120).

* So in original. [Does not conform to section heading.]

- Article**
7. Board of health (§ 123).
 8. City elections; general; special; how conducted (§§ 125-130).
 9. Department of public instruction (§§ 141-156).
 10. Fire department (§§ 160-164).
 11. Department of public works (§§ 170-181).
 12. City court (§§ 185-243).
 13. Miscellaneous provisions (§§ 250-255).
 14. Time of taking effect (§ 275).

ARTICLE 1.

- Section**
1. Short title.
 2. Boundaries; corporate limits.
 3. Corporate name and powers.
 4. Definitions.

Section 1. Short title. This act is a public act and shall be known as "The charter of the city of Long Beach."

§ 2. **Boundaries; corporate limits.** The corporate limits of the city shall include all those lands and parcels of land constituting the present village of Long Beach, in the county of Nassau and state of New York, and all those lands included within the following described boundaries: Beginning at a point that is formed by the intersection of the northerly side of the boardwalk with a line running one hundred and sixty feet east of the westerly side of Maple boulevard and parallel thereto (as said boardwalk and boulevard are shown on map entitled "Map of Estate of Long Beach," filed as map number thirty-one in the office of the clerk of the county of Nassau on April twentieth, nineteen hundred and eleven); thence northerly and in a straight line running one hundred and sixty feet east of the westerly side of Maple boulevard and parallel thereto and extended to the center line of Reynolds channel; thence westerly along the center line of Reynolds channel as it winds and turns to its intersection with a straight line running sixty feet west of the westerly side of Minnesota avenue and parallel thereto and extended to the center line of Reynolds channel; thence southerly and in a straight line running sixty feet west of the westerly side of Minnesota avenue and parallel thereto to the intersection of said line with the northerly side of proposed extension of boardwalk (as said avenue and proposed extension of boardwalk appear on map entitled "Map of West End Seashore Bungalows, Inc.," filed as map number thirty-five in the office of the clerk of the county of Nassau on January sixteenth, nineteen hundred and seventeen); thence easterly and along the northerly line of proposed extension of boardwalk and along the northerly side of boardwalk to the point or place of beginning, including all the territory within said bounds.

§ 3. **Corporate name and powers.** 1. City of Long Beach. The citizens of the state of New York from time to time inhabitants within the boundaries of the city of Long Beach as afore-

said shall be a municipal corporation in perpetuity under the name of the "City of Long Beach." The said corporation may take, purchase, hold, sell and convey real and personal property; it may take by gift, grant, bequest and devise, and hold real and personal estate in trust for any purpose of education, art, health, charity or amusement, for parks or gardens, for the erection of statues, monuments, public buildings or other public use, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation, and may provide for the proper execution of said trust. Except as otherwise provided by law, the city shall have full power and exclusive control over the streets and highways, parks, public waters and other public places. It shall have power to lay out, enlarge and alter parks, markets, public grounds, public waters; construct pavements, sidewalks, culverts, sewers, aqueducts, wharves, canals, slips, basins, water mains, gas mains and conduits. It may, subject to a certificate of convenience, and necessity duly granted by the public service commission, construct, lease or acquire by purchase or condemnation, and control and operate the public works for supplying the city, its inhabitants and industries within its limits with light, water, power, heat, ice, transportation of persons and property. It may enlarge, alter or make additions to any of the light, water or sewerage plants taken over by the city from the village of Long Beach. It shall determine the valuation of property provided for purposes of taxation and to levy and collect taxes upon real and personal property and assessments on property benefited by local improvements. It may construct and maintain public buildings, public works and public improvements of all kinds deemed by it necessary for the welfare and comfort of its inhabitants, including local improvements, and levy upon the property benefited thereby the cost thereof in whole or in part. It may acquire land by purchase, gift or eminent domain for any municipal purpose and erect buildings and other structures, including one or more buildings to be used for public assembly, and do anything necessary to beautify the city or preserve or add to the safety, intelligence, comfort and well being of the city and its inhabitants, and may have, use, and from time to time offer, a common seal, and may sue and defend in all courts. It may do everything necessary to carry into effect powers granted to it and the duties imposed upon it by this act or under general laws of the state.

2. Town of Hempstead. The town of Hempstead shall hereafter consist of all the territory heretofore constituting said town, except that portion thereof embraced within the boundaries of the city of Long Beach, and the territory embraced within the boundaries of said city as hereinbefore described shall not constitute or be a part of the town of Hempstead. The city of Long Beach shall have no claim to the property, real or personal, owned by the town of Hempstead, nor shall it bear any of the liabilities of the town. The taxes assessed for town, county and state purposes, upon lands within the city of Long Beach which

became a lien on December first, nineteen hundred and twenty-one, and those which become a lien on June first, nineteen hundred and twenty-two, shall be due and payable to the town collector of the town of Hempstead.

3. Succession of liabilities. The corporation known as the village of Long Beach and included within the boundaries of said city is hereby dissolved, subject to the provisions of this act. The city of Long Beach shall succeed to and be vested with all the rights and property of the village of Long Beach and shall succeed to and be liable for the entire bonded indebtedness and all the liabilities of said village corporation of every name and nature; and every suit, prosecution or proceeding commenced by or against said village corporation, and pending at the time this act takes effect, may be continued by or against and in the name of said village, or at the option of the officials of such city the name of the city may be substituted instead of the village corporation, and in the name of the city all suits, actions or proceedings may be continued. All divisions of said village into road, fire or other districts, highways, streets and parks shall remain, be and continue such divisions, highways, streets and parks in said city of Long Beach; and all ordinances, rules and regulations of the board of trustees of said village of Long Beach in force at the time this act takes effect shall be and continue to be in force, and shall have the same force, over the entire limits of the city of Long Beach as in and by this act established, until repealed, modified or changed by the council of said city, subject, however to the provisions of this act; the said council is hereby authorized and empowered in the name for and in behalf of the city of Long Beach to enforce all such ordinances, rules and regulations, and all contracts of said village, or agreements, including collections of all village taxes and assessments, debts and demands, imposition and collection of fines and penalties, prosecution and defense of all suits; and to do, take and perform all other acts and proceedings that may be or become necessary or proper to carry out and enforce said contracts, agreements, ordinances, rules and regulations, and the collection of taxes and assessments, with the same force and to the full extent as might have been done by or on the part of the board of trustees of said village, or by said village, and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to or by reason of, any such contract, ordinance, rule or regulation, or otherwise, as well as any liability that may have arisen by reason thereof, shall remain and be the same under this act as they would have been under the village charter of said village; and all rights and liabilities of said village existing at the time this act takes effect shall be in no wise affected or changed thereby; but all actions and proceedings which may be hereafter commenced to enforce or protect any such accrued or existing rights, privileges or liabilities shall be brought and prosecuted or defended by or in the name of the city of Long Beach. All rules and regulations pertaining to the government of the fire department of the said vil-

lage in force at the time this act takes effect shall remain, be and continue the same under the said city as under said village government, until repeal thereof and the adoption of other or further rules and regulations in relation thereto. The ownership and control of all the village property and effects pertaining to or connected with the fire department of said village shall by virtue of this act vest in the city of Long Beach and in the fire department thereof in the same manner and to the same extent in all respects as the same is now vested in said village and fire department.

The assessors and the tax collector of the village of Long Beach shall complete the assessment, levy and collection of taxes respectively, in the city of Long Beach for the current year. For this purpose they shall be assessors and collector respectively of the city of Long Beach; and such taxes shall be deemed taxes of the city of Long Beach, and the assessment and levy of such taxes by such assessors and all acts performed by them and by such tax collector are hereby confirmed and shall be as valid in all respects as though made and done by city officials elected or appointed under this act and all such taxes shall remain a lien on the property affected thereby until fully paid. Payment thereof may be enforced by action or by sale of the property affected thereby as provided in this act. The council of the city of Long Beach shall at its first meeting in June, nineteen hundred and twenty-two, or as soon thereafter as practicable, make up the budget for the city and all the departments thereof, anything herein to the contrary notwithstanding; such budget shall be for an amount sufficient for the needs of the city until December thirty-first, nineteen hundred and twenty-three.

For the purpose of the assessment and levy and collection of taxes which shall be due and payable, as herein provided, on December first, nineteen hundred and twenty-two, the last preceding assessment roll of the village of Long Beach shall be the assessment roll of the city of Long Beach, as to all property within the limits of the former village of Long Beach, and the last preceding assessment roll of the town of Hempstead shall be the assessment roll of the city of Long Beach, as to all property formerly within the town of Hempstead and not within the limits of said village, and included within the city of Long Beach. After the amount of the budget for part of the year nineteen hundred and twenty-two and the year nineteen hundred and twenty-three is finally determined and the rate of the city tax is fixed and the amount to be levied on each parcel of real estate and against each person or corporation within the city is fixed and determined, the council may borrow on note, bond or other obligation of the city an amount, sufficient to meet the needs of the city, in anticipation of the collection of such taxes.

Any proceeding heretofore initiated by the presentation of a petition to the board of trustees of the village of Long Beach for the making of a public improvement in accordance with section one hundred and sixty-six of the village law or sections two hundred and sixty-four to two hundred and seventy-five, in-

clusive, of the village law (as said sections now read or as they or any of them may be amended before this act goes into effect) shall not be affected by this act, but the same shall be concluded pursuant to the village law.

Union free school district number twenty-eight of the town of Hempstead, county of Nassau, is hereby dissolved. The city of Long Beach shall succeed to and be vested with all the rights and property of such school district and shall succeed to and be liable for the entire bonded indebtedness and other obligations of such school district of every name and nature, as provided in article nine of this act.

§ 4 **Definitions.** The official and fiscal year of the city shall commence on the first day of January in each year and end on the thirty-first day of December. The term "streets," as used in this act, includes boulevards, highways, avenues, alleys and lands. The term "resolution," as used in this act, includes all motions, orders, rules, regulations and by-laws other than ordinances. The word "person," as used in this act, shall be construed to include all persons, firms, companies, corporations and associations.

ARTICLE 2.

CITY OFFICERS.

Section 8. City officers enumerated.

9. Elective city officers enumerated; term.
10. Qualifications of elective officers.
11. Appointive city officers enumerated; by whom appointed; their term of office.
12. Compensation.
13. No extra compensation.
14. Opinions not to affect appointment.*
15. Bonds of officers.
16. Oath of office.
17. Payment of debts.

§ 8. **City officers enumerated.** The officers of the city shall be a mayor, a city judge, a city treasurer, three tax assessors, a commissioner of charities, a city clerk, a corporation counsel, a commissioner of public works, one or more deputy commissioners, a building commissioner, a city engineer, a fire commissioner, a police commissioner, a chief of police, one or more city marshals, one or more superintendents of departments, five members of the board of education, a city physician who shall also be the health officer of the city, one supervisor and so many commissioners of deeds as may be deemed necessary by the council.

§ 9. **Elected city officers enumerated; term.** 1. Elective city officers. The elective city officers to be elected by the city at large shall be a mayor, a city judge, one tax assessor, one supervisor and three members of the council.

2. Term of office. The terms of all elective officers, excepting

* So in original. [Does not conform to section heading.]

those elected at the first special election as hereinafter provided, shall be four years, and shall begin January first following their election. The terms of the officers elected at the first general election, as hereinafter provided, shall begin on June first, nineteen hundred and twenty-two and expire on January first, nineteen hundred and twenty-six, at twelve o'clock noon.

§ 10. **Qualifications of elective officers.** No person shall be eligible to hold an elective office in the city of Long Beach unless he is a freeholder of the city of Long Beach and an elector thereof and has been a resident thereof for six months previous to his election. No person shall be elected city judge unless he shall have had at least one year's experience in a judicial office or shall have been for at least one year previous to his election duly admitted to practice as an attorney and counselor in the several courts of this state. Whenever any officer of said city shall cease to be a resident of said city his office shall thereby become vacant.

§ 11. **Appointive city officers enumerated; by whom appointed; their term of office.** 1. The appointive officers of the city of Long Beach shall be a city treasurer, a city clerk, a corporation counsel, a city physician and health officer, a commissioner of charities, one fire commissioner, two city tax assessors, a commissioner of public works and one or more deputy commissioners of public works who may also be superintendent of public works, and a building commissioner, five members of the board of education, one chief of police, one or more city marshals, a city engineer, one or more superintendents of departments and library trustees, not to exceed five in number, as determined by the council. All of such officers shall be appointed by the mayor and such other officers and deputies as shall be provided for by ordinance passed by a four-fifths vote in the council and which the council in its judgment deems necessary and proper for the efficient conduct of the affairs of the city. Any deputy or official appointed or elected may perform duties in one or more departments as the council may designate. Any officer or employee appointed as herein provided may be removed by the mayor, except as otherwise provided by law, and the mayor shall appoint his successor. The council may, by ordinance passed by a unanimous vote of all its members, vest in the head of any department the appointment of such subordinates, not herein named specifically, as it deems advisable. A superintendent of public schools, who may also be principal of a public school, may be appointed by the board of education as hereinafter provided. The mayor may appoint a chief of police and as many regular and special patrolmen as the council determines is necessary for the proper protection of the city of Long Beach. The council shall fix the terms of all appointive officers.

§ 12. **Compensation.** The mayor, members of the council, fire and police commissioners, if any, commissioners of charities and members of the board of education shall receive no compensation for their services. The annual salary of the city judge shall be two thousand dollars; the annual salary of the city treasurer and

tax collector shall be four thousand dollars; the annual salary of the city clerk shall be thirty-five hundred dollars; the annual salary of the city physician and health officer shall be fifteen hundred dollars; the annual salary of the elected tax assessor shall be two thousand dollars; the appointive tax assessors shall receive twenty dollars for each meeting of the board of assessors they attend, not exceeding, however, the annual sum of two hundred and fifty dollars; the corporation counsel shall receive such compensation as shall be agreed upon from time to time by the council; the city engineer shall receive such compensation as shall be determined by the council; the chief of police and each patrolman, both regular and special, shall receive weekly salaries to be fixed by the council, subject to the approval of the mayor; the commissioners of deeds shall receive the compensation now provided by law to be received by them; the supervisor shall be entitled to receive from the county of Nassau the same compensation for his services as a corresponding officer elected in the towns of Nassau county is entitled to receive for like services; the supervisor may also hold any appointive office in the city; the inspectors of election and such other officers as are authorized to be appointed, shall receive the compensation fixed by law. The council shall fix by ordinance the salary or compensation to be paid to all other employees of the city and the time when the same shall be payable.

§ 13. **No extra compensation.** No officer or employee shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from any contract with the city or supplies sold to the city or by reason of any improvements, alterations or repairs required by authority of the city, except his lawful compensation or salary as such officer or employee.

§ 14. **Opinions not to affect appointments.** No appointment to any position under the city government shall be made or withheld by reason of any religious or political opinions or affiliations or political service; and no appointment or election to, or removal from, any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations or service.

§ 15. **Bonds of officers.** Each of the officers of the city, including the mayor and each councilman, shall execute and file with the city clerk a bond or undertaking with sufficient sureties in such sums as shall be fixed by ordinance, conditioned for the faithful performance of the duties of their respective offices, and for the accounting and payment to the city of all moneys belonging to the city received by them, and with such other conditions as may be required by ordinance. Wherever required so to do by the council, any such officer shall execute and file a new bond or undertaking. The cost of a bond of a surety company given by the mayor or any councilman shall be borne by the city. The bond of the collector of taxes shall also be filed in the office of the clerk of the county of Nassau.

§ 16. **Oath of office.** Every officer or salaried employee shall, before he enters upon the duties of his office, take, subscribe and file with the clerk the constitutional oath of office.

§ 17. **Payment of debts.** Failure of any employee to promptly pay any legal indebtedness for necessities contracted for by him, while in the service of the city, shall be ground for his removal from such employment.

ARTICLE 3.

CITY OFFICERS; THEIR GENERAL POWERS AND DUTIES.

Section 20. Mayor.

21. City treasurer; tax collector.
22. City clerk.
23. Corporation counsel.
24. City engineer.
25. City physician and health officer.
26. City supervisor.

§ 20. **Mayor.** The mayor shall be the chief executive officer of the city and shall have and exercise all the powers conferred upon him by this act or by the general statutes of the state not inconsistent with this act. It shall be his duty to see that the laws of this state and the ordinances and by-laws passed by the council are faithfully executed within the city. He shall sign, on behalf of the city, all contracts, bonds or obligations made by it, and cause the seal of the city to be affixed thereto. He shall be the presiding officer of the council. He shall be commissioner of public works and the police commissioner of the city, until otherwise provided by the unanimous vote of the council; and shall have power and authority to call out and command the police and firemen of the city whenever in his discretion he shall deem it necessary, and such command shall be in all respects obeyed. Whenever necessary for the prevention or suppression of public disturbance, mobs or riots it shall be his duty to take such action as is authorized by the laws of the state. It shall be his duty to exercise a constant supervision and oversight over the conduct of all city officers, departments, boards and commissions, and he shall have power and authority to examine at all times the books, vouchers and papers of any officer or employee of said city, and to take and hear testimony and proof in pursuance of sections three hundred and fifty-seven to three hundred and sixty-five, and four hundred and three to four hundred and fourteen of the civil practice act. He may designate from time to time the place in said city where he shall keep his office. It shall be the duty of the mayor to communicate to the council as soon after his election as practicable, and as often thereafter as he may deem expedient, a general statement of the affairs of the city in relation to its finances, government and improvement with such recommendations as he may deem proper. The mayor of said city, in addition to such powers as may by law and this act be conferred upon him, shall have power:

(a) To supervise all public utilities owned by the city and a general supervision over all public affairs not otherwise provided for herein.

(b) He shall have such other rights and powers as may be provided by ordinance not in conflict with this charter.

(c) He shall have the right to vote on all questions coming before the council.

§ 21. **City treasurer; tax collector.** The city treasurer shall be the fiscal officer of the city and shall perform such duties incident to his office as the council may require. He shall keep an office at such place as the council shall provide and designate, which shall be kept open each day in the year, except Sundays and legal holidays, from nine o'clock in the forenoon until four o'clock in the afternoon, except between the hours of twelve and one o'clock, and at such other hours as the council may from time to time direct. He shall keep separate accounts of the different funds of the city and shall not pay out any money chargeable to any fund in excess of the amount standing on his books to the credit of such fund, unless the council has by resolution transferred an amount in one fund to another fund and he shall not knowingly pay money from any fund which is not properly chargeable thereto. The city treasurer shall before the first meeting of the council in each month file with the city clerk a report showing in detail the total expenditures and receipts of city moneys during the next preceding calendar month, a summary statement of the receipts and expenditures of city moneys during that portion of the current fiscal year expiring with the last day of such preceding month, and the balance at the end of such month standing to the credit of the city funds. Such statement shall be in such form as shall be prescribed from time to time by the council. Before entering upon the duties of his office and within fifteen days after he shall have received official notice of his election the city treasurer shall execute and file an official bond with two or more sureties, or of some solvent surety company, in such penal sum as may be fixed by the council in accordance with section fourteen of the general construction law and sections eleven, twelve and thirteen of the public officers law; and for omission so to do he shall be subject to the penalties and liabilities prescribed by section eighteen hundred and twenty of the penal law, and sections thirteen, fifteen and thirty of the public officers law. Such bond shall be approved by the council with the certificate of the city clerk of such approval endorsed therein, and the bond so endorsed shall be filed and recorded in the clerk's office of the county of Nassau in the same manner as the official bond of town collectors, and in the event of default on the part of said treasurer such bond shall be a lien on all property owned by him at the time of such default together with all the costs and charges which may accrue upon the prosecution thereof; such bond shall continue in full force until the council shall by resolution declare that such bond is satisfied, and a copy of such resolution duly certified by the city clerk may be filed

and recorded in the office of said city clerk and shall operate to discharge the same and the lien thereof from record. A true copy of such bond and certificate shall be filed in the city clerk's office. The city treasurer shall be the tax collector of the city with all the powers and duties hereinafter enumerated.

§ 22. **City clerk.** The city clerk of said city shall be ex officio clerk of the council, clerk of the board of health and registrar of vital statistics of the city. He shall perform such other duties incident to his office as may be required by the mayor and those established by ordinance. He shall keep the minutes of the meetings of the council and of each board of which he is ex officio clerk and shall record in books to be kept for that purpose all proceedings of the council and of each such board and index the same. He shall keep an office at such place as the council shall provide and designate. He shall have charge, custody and control of the corporate seal, books, papers, documents and official minutes of the city except as otherwise provided by or in pursuance of law. He shall keep a book and alphabetically index and record therein all bonds of the city officers as well as all contractors' or other bonds running to the city or any of its officers, and note therein the date of filing each such bond. He shall, upon request and payment of the fees therefor, make certified copies of all records and documents in his possession or under his control as such clerk or ex officio clerk, and may affix the corporate seal of the city to any such certificate, and such seal shall be deemed to be his official seal and any such certified copy shall be evidenced as provided in section three hundred and eighty-two of the civil practice act. He shall be entitled to demand and receive fees for such certified copies at the rate of ten cents per folio from each person, other than a city officer, upon whose request any such certified copy is made and delivered. He shall keep an accurate account of all fees and moneys received by him as such clerk or ex officio clerk, other than his salary, including fees received by him as registrar of vital statistics, and shall on or before the tenth day of each month pay over all such fees and moneys received by him during the month immediately preceding to the city treasurer to the credit of the contingent fund, for which he shall take a receipt and file the same in his office. Such receipt shall at all times be subject to examination by the council or any member thereof. His office is hereby declared to be a town clerk's office and he shall possess all the powers and discharge all the duties of a town clerk not inconsistent with this act.

§ 23. **Corporation counsel.** The corporation counsel shall be the official legal adviser of the council and all boards and officers of the city including the assessors. He shall furnish on request written legal opinion to the council or any department of the city. He shall, when directed by the council, prosecute and defend all actions and proceedings by and against the city and every department thereof, and perform such other professional services relating to said city as the mayor or council may

direct. He shall when required prepare all ordinances, resolutions, legal papers, contracts, deeds and other instruments for the city and the different departments thereof. He shall at the expiration of his term of office hand and deliver to his successor in office as soon as qualified, the record or register of all suits or proceedings in which the city or any of its departments may be a party and also all papers on the part of the city therein, and also sign stipulations substituting said successor as attorney for the city to such suits or proceedings, to the end that a substitute order may be entered making such substitution. All costs in litigated cases, where the city is successful, shall belong to the city, and when collected shall be paid to the treasurer and credited to and form a part of the general fund of the city. He shall receive such compensation for services actually rendered as may be approved by the council.

§ 24. **City engineer.** The city engineer shall perform all of the city engineering required by the council and by all departments and officers of the city. He shall make all preliminary surveys for the opening, widening, laying, constructing, paving, macadamizing, repairing, grading and establishing the grade of all streets, sidewalks and crosswalks, gutters, sewers, sewer inlets and the measurement of all work done on the same or other public place in the city, and prepare plans, profiles and specifications therefor when necessary or when required by the mayor or the council, and shall perform such other duties as may from time to time be required by the mayor and the council. He shall have no power to contract any liability or debt on the part of the city, except as authorized by the council. He shall keep in his office books and records and surveys of all maps and streets, avenues, walks and the grades thereof, and water mains, sewers, sewer inlets, and the location and grades thereof. Such books and records shall be properly indexed and shall be the property of the city and transmitted with all other matters pertaining to his office to his successor. He shall receive such compensation for services rendered as may be approved by the council.

§ 25. **City physician and health officer.** The city physician shall be the health officer of the city. He shall have all the powers and be subject to all the duties provided by ordinance of the council and by the public health law.

§ 26. **City supervisor.** The supervisor of the city shall have such powers and duties within the city as may be prescribed by the council. He may hold any appointive position within the city. He shall be a member of the board of supervisors of the county of Nassau and shall receive the same compensation from the county payable in the same manner as supervisors of towns in the county of Nassau. The supervisor first elected and his successors elected under this act shall be recognized by the board of supervisors of the county of Nassau and be allowed to take his seat as a member of said board and participate in all the deliberations and proceedings of said board during his term of office. He shall have one vote in the county board of supervisors. His term of office shall begin as herein provided.

ARTICLE 4.

POLICE DEPARTMENT.

Section 44. Mayor as commissioner.

45. Appointment of chief of police.
46. Accounts and records.
47. General powers and duties of commissioner.
48. Appointment of commissioner of police.
49. Deputy commissioner.
50. Qualifications of patrolmen.
51. Patrolmen of other departments.
52. Privately employed patrolmen.
53. Special patrolmen.
54. Oath of office.
55. Bonds of certain officers.
56. Disposal of stolen and other property.
57. Nuisances, fires, strangers, etc.*
58. Duties of policemen at polls on election day.
59. Arrests.
60. Monthly financial report.
61. Application of funds; annual estimate.
62. Annual report.
63. Complaints.
64. Further ordinances.

§ 44. **Mayor as commissioner.** The mayor shall be the commissioner of police of the city of Long Beach. He shall have charge of the police department.

§ 45. **Appointment of chief of police.** The mayor shall appoint a chief of police and such other clerks and assistants as may be necessary. He may designate a harbor master, a sealer of weights and measures and such other officers as may be required. He shall prescribe their duties and, subject to the approval of the council, fix their compensation.

§ 46. **Accounts and records.** The mayor shall cause to be kept proper accounts and records of the proceedings of the department. Such part of said accounts, records and proceedings as the public welfare may require shall be public.

§ 47. **General powers and duties of commissioner.** The powers and duties of the commissioner which shall be performed and exercised as herein provided and in accordance with the laws of the state and the ordinances of the city shall be as follows:

(a) He shall assume and exercise supervision over the police department and make all proper rules for the government and discipline thereof;

(b) He shall have the custody and control of all property, books, records and equipment belonging to the department;

(c) He shall preserve the public peace and prevent crime, arrest offenders and protect the rights of persons and property,

* So in original. [Does not conform to section heading.]

guard the public health, preserve order and enforce the laws of the state and ordinances of the city;

(d) He may change the titles of police officers and employees under him, except deputies, designating such titles as he may see fit, creating whatever offices and positions he may deem necessary for the proper organization and conduct of the department;

(e) He shall have power to administer oaths, take depositions and issue subpoenas;

(f) He shall have power, subject to the approval of the council, to erect and maintain police stations, garages, and barns, and to build and operate a telegraph signal system;

(g) He shall provide, through the purchasing department of said city, all materials and supplies for the use of the department;

(h) He shall, except as herein otherwise provided, collect all license money under the laws of the state and the charter and ordinances of the city, and account for the same;

(i) He may, with the approval of the council, in the name of the city take and hold by purchase, gift, devise, bequest or otherwise such real and personal property as may be needed for the purposes of the department;

(j) He shall recommend to the council the institution of condemnation proceedings whenever in his judgment private property should be taken in the name of the city for the purposes of the department;

(k) He may, with the approval of the council, sell and convey or lease lands whenever required by the interests of the city;

(l) He may make, with the approval of the council, all contracts to carry out the objects and purposes of the department as herein provided;

(m) He shall have such other powers as are herein prescribed or may be necessary hereunder for the proper discharge of his duties;

(n) He shall have supervision of all traffic, ordinances and regulations affecting streets, avenues, boulevards and other public places; keep a record in his office relative to accidents occurring therein incident to traffic; investigate the causes thereof; make recommendations to the council for necessary legislation to prevent and suppress such accidents, and shall through educational publicity among the people of the city seek to reduce the number of such accidents.

§ 48. Appointment of commissioner of police. The mayor may, with the approval of the council, and when in the opinion of the mayor the growth of the city justifies his act, appoint a commissioner of police who shall have all the powers and assume all the responsibilities of the mayor while acting as commissioner of police as provided in this act.

§ 49. Deputy commissioner. The mayor may, with the approval of the council, appoint a deputy commissioner of police during the sickness, absence or other temporary inability of the mayor

to perform the duties of his office. The deputy commissioner shall perform the duties and have the powers of the mayor relating thereto, except that the deputy commissioner shall not have the authority to change any general rule or regulation or to make appointments or dismiss any member of the department.

§ 50. **Qualifications of patrolmen.** No person shall be appointed to or hold office who is not a citizen of the United States and who shall not have resided in the state of New York one year next preceding his appointment, who cannot read and write the English language, or who has ever been convicted of any crime, provided that qualifications as to residence herein prescribed shall not apply to the police commissioner or deputy police commissioner.

§ 51. **Patrolmen of other departments.** The mayor may appoint persons in the employment of the city in other departments as special policemen or patrolmen. Such policemen shall possess the same powers as the regular patrolmen, except when otherwise restricted by direction of the mayor; obey the rules and regulations of the mayor and conform to the general discipline of the department.

§ 52. **Privately employed patrolmen.** The mayor may, on application of any person or persons showing the necessity therefor, appoint and swear in any number of additional patrolmen at the charge and expense of the person or persons by whom the application shall be made, to do duty at any place designated in the application or by the mayor. Such patrolmen shall hold office at the pleasure of the mayor subject to the rules and regulations of the department, and shall conform to the general discipline of the force and such regulations as shall be made for their government and may be removed at any time by the mayor without cause assigned therefor. They shall wear such dress and emblems as the mayor shall prescribe and shall possess, as conservators of the peace, all the powers and privileges and perform all the duties of the force herein prescribed. No such patrolman shall be appointed until he shall have paid to the mayor the sum of five dollars to be credited to the policemen's retirement fund, if any such fund be established, otherwise to a fund which shall be maintained for injured policemen or their families, and the appointment may be renewed annually upon the payment of a like sum.

§ 53. **Special patrolmen.** The mayor may, in case of an emergency, riot, pestilence, invasion, or during any day of public election or celebration, or during the summer season, appoint for a specified time as many special patrolmen as he may deem advisable. During the terms of service such special patrolmen shall possess all the powers and privileges and perform all the duties of patrolmen herein prescribed and shall receive such compensation, not exceeding five dollars per day, as the mayor may prescribe.

§ 54. **Oath of office.** The mayor shall require each member of the force to take the constitutional oath of office, and provide

for the registry of a certificate thereof in a book to be kept for that purpose, which oath may be taken before said mayor or the deputy commissioner, who are hereby empowered to administer oaths.

§ 55. **Bonds of certain officers.** The mayor may require the deputy commissioner, the heads of bureaus or any other officer or member of the force to give bond in such amount as the mayor may prescribe, conditioned upon the faithful performance of any duty connected with the care and disposition of any money or property under their control in connection with said department.

§ 56. **Disposal of stolen or other property.** All stolen or other property taken or found by any officer in the possession of any person or persons arrested or charged with a violation of the law, all property or money taken on suspicion of having been feloniously obtained or being the proceeds of crime and for which there is no other claimant than the person from whom it was taken, all lost property coming into the possession of the department, and all property and money taken from pawnbrokers as the proceeds of crime, or from any insane or intoxicated person or persons otherwise incapable of taking care of himself or themselves, shall be deposited, handled and accounted for under regulations prescribed by the mayor and approved by the council. All unclaimed property shall be sold in the manner prescribed by such regulations and the proceeds deposited in the city treasury to the credit of the police pension fund.

§ 57. **Nuisances, strangers, et cetera.** The mayor shall cause to be made a report of all leaks and defects in water pipes and sewers and all defective sidewalks and street pavements to the proper authorities; he shall provide a proper force at every public fire to protect the firemen in the performance of their duties and the preservation of property for the owners thereof, and shall station officers at railway stations and other public places.

§ 58. **Duties of policemen at polls on election day.** Nothing herein shall give the mayor or any patrolman power to do anything in conflict with the powers of inspectors of election. Policemen stationed at the polls on election days shall perform all the duties and be subject to all provisions of law relating to their attendance or to the attendance of constables at the polls on election days.

§ 59. **Arrests.** In every case of arrest the commanding officer on duty in the precinct wherein such arrest is made shall as soon as practicable make written return thereof according to the rules and regulations of the department. The mayor shall provide suitable accommodations for the detention and care of persons arrested for offenses. He shall also provide accommodations for the detention of witnesses who are unable to furnish security for their appearance in criminal proceedings and such accommodations shall be in places other than those for the confinement of persons charged with crime, fraud or disorderly conduct.

§ 60. **Monthly financial report.** The mayor shall on the last day of each month cause to be filed with the treasurer a report

giving the date of collection or receipt of all money collected or received by the department, and shall daily pay into the city treasury all moneys so collected or received.

§ 61. **Application of funds; annual estimate.** All moneys paid into the city treasury by the mayor acting as police commissioner, except such moneys as are herein required to be credited to the police pension and retirement fund, shall apply exclusively on the payment of all expenses incurred by the department. On or before the first day of October of each year the commissioner shall transmit to the city treasurer his estimate in duplicate of the amount of money required for the purposes of the department for the ensuing fiscal year.

§ 62. **Annual report.** The mayor acting as commissioner shall, on or before the fifteenth day of January in each year, make a written report to the council of the work of the police department during the previous year. The report shall be certified by the mayor, entered of record by the city clerk and published in such manner as the council may direct. The mayor or deputy commissioner or chief of police shall also make such other reports as the council may from time to time require.

§ 63. **Complaints.**—The mayor shall promptly investigate and make report to the bureau of complaints concerning all complaints referred by such bureau to the mayor relative to the administration of the department.

§ 64. **Further ordinances.** The council shall enact such ordinances as may be necessary to carry out the provisions of this act.

ARTICLE 5.

CITY COUNCIL

Section 70. City council, how composed; powers.

71. Meetings.
72. Special meetings.
73. Rules.
74. Additional authority conferred on council.
75. Official newspaper.
76. Ordinances, when in force; publication.
77. Limit to amount of money to be raised.*
78. Expenditures, limitation of.*
79. Council may borrow money.
80. Council may rebuild public service plants.
81. Council may issue warrants.†
82. Council may compel obedience to ordinances.
83. Council may authorize awards.‡
84. Council may regulate weighing of coal.
85. Ordinances and resolutions.
86. Amendment or repeal.
87. Record of ordinances.

* So in original. [See note on page 1703.]

† So in original. [Sections a, b, c, d omitted.]

‡ So in original. [Does not conform to section heading.]

Section 88. Rules and regulations for the collection of garbage, ashes and refuse.

89. Temporary vacancies in council, how filled.

90. Accommodations for departments.

91. Council shall have powers of other boards.

92. Banks of deposit.

93. Auditing bills.

94. Further powers of council.

95. Civil service commission.

96. Council may establish board.

97. Parks.

§ 70. **City council, how composed; powers.** All the legislative powers of the city, howsoever conferred upon or possessed by it, are hereby vested in the council of the city of Long Beach, save as may be hereafter specially excepted. Such council shall be composed of the mayor, three councilmen and the supervisor, each of whom shall have a right to vote on all questions coming before the council. Three members shall constitute a quorum and the affirmative vote of three-fifths of the entire council shall be necessary to adopt any motion, resolution or ordinance or pass any measure unless otherwise provided for in this act.

The council shall exercise all the corporate powers conferred by this act and, except as otherwise provided by law or this act, shall have the management and control of the conveyance of all the property real and personal belonging to said corporation, and shall have power within said city to make, establish, publish and modify annually, and repeal, ordinance, rules, regulations and by-laws for any of the purposes specified in this act. It shall, for all purposes, be the common council of the city.

§ 71. **Meetings.** Meetings of the council shall be public. Stated meetings thereof shall be held at such times as the council shall prescribe by ordinance. Upon every vote of the council the ayes and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote thereon is taken. The mayor shall preside at all meetings. He shall have power to veto any motion, resolution or ordinance. Any such motion vetoed by the mayor may be passed by the council by a four-fifths vote over his veto, and the same shall be carried and enacted as though it received the mayor's affirmative vote and signature. Every resolution or ordinance passed by the council must be signed by the mayor, or by three councilmen and must be properly recorded before the same shall be in force. The council shall keep a journal of its proceedings, and shall either publish the same in the official paper or papers, or shall provide by ordinance for their publication as provided in this section.

§ 72. **Special meetings.** Special meetings of the council may be held upon call of the mayor and also as may be provided by resolution or rule. Notice of all special meetings shall be given by delivering personally to each member, or leaving at his resi-

dence, at least twelve hours before such meeting, a written notice thereof, signed by the person or persons calling the same. Such notice shall specify the object of such meeting and no other business shall be transacted except upon unanimous consent of all of the members of the council.

§ 73. **Rules.** The council shall determine its own rules of procedure, may punish its members for disorderly conduct and compel their attendance at the council meetings.

§ 74. **Additional authority conferred on council.** The council shall, in addition to the authority conferred under general laws, from time to time enact ordinances:

1. To define and prevent disorderly conduct; to prevent all disorderly assemblages, all disturbing noise, all drunkenness in public places; and to punish vagrants, beggars and disorderly persons as defined by law;

2. To preserve and protect the harbors, canals, basins and other waters of the city; to prevent all encroachments, obstructions, and deposits in them; to prohibit or regulate bathing or swimming in any waters in the city; to prevent any steam vessel, while navigating waters within the city, from emitting dense smoke, soot or dust within the city limits; to regulate and prescribe the mode and speed of vessels, boats and floats in entering and leaving, coming to, lying at or departing from, the wharves and piers, and the disposition of the sails, yards, anchors and appurtenances, and to empower such officer as it may designate to prescribe and regulate the location therein of all vessels, boats or floats and to compel them to change their location;

3. To regulate the height and bulk of buildings and the area of yards, courts and other open spaces, and to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses, and to fix the street line of all buildings; to prescribe general regulations for the erection of all buildings in the city; to define the limits within which wooden buildings shall not be erected, placed or rebuilt, and the manner in which, and the materials of which, all buildings shall be constructed within such limits, and also to define outer limits in which wooden buildings may be constructed, placed or rebuilt, under such regulations as may be imposed by ordinance, special permission from the council being required therefor. Every building erected or placed contrary to any ordinance passed under the above provisions shall be deemed a common nuisance, and may be abated as such; to regulate and prevent the use of fireworks and firearms in the city; to prevent bonfires in the streets and public grounds, and to require fire-escapes to be placed upon buildings when and as directed by the commissioner; to punish the wilful making of a false alarm of fire or wilfully calling a police patrol wagon without cause, and to prohibit the formation of fire, hose or hook and ladder companies;

4. To license and regulate cartmen, porters, owners and drivers of taxicabs and all vehicles used for the transportation of passengers or property for hire, and persons or corporations offering

or supplying messenger service, and to fix the rates of compensation to be taken by them; to license and regulate plumbers, auctioneers, butchers, hawkers, peddlers, junk dealers, dance halls, dancing schools and other entertainments of like character, pawnbrokers and the business of pawnbrokers, and to fix the rates to be charged by pawnbrokers in their business; to regulate the running at large of dogs, and to license the same; to prohibit, license or regulate public billiard rooms, bowling alleys, runners or solicitors for houses of entertainment, railroads, vessels and vehicles and the exhibition of shows of every kind and of theatrical representations, and to prescribe the terms and conditions on which license shall be granted; to impose and levy a tax upon the owner or owners of hackney carriages, sleighs, cabs, coupes, private carriages, barouches, buggies, wagons, omnibuses, carts, drays, baggage wagons, bicycles, tricycles and similar vehicles or any other vehicle other than motor vehicles for the privilege of operating, driving or propelling the same along or upon the public streets, avenues, highways and other public places in the city; to fix the amount of such tax, and to prohibit the use of the public streets, highways, avenues and other public places of the city by the owner or owners or driver or drivers of any such vehicle in the event of any tax so imposed not being paid, and to fix and provide such penalty or penalties as it shall deem proper for a violation of any such ordinance; to regulate and license occupations and businesses of every description;

5. To prevent and abate any nuisance; to require any railroad company to keep a flagman or gates at each railroad crossing of a public street; to provide for the inspection of steam engines and boilers used in the city, and to prohibit the use of unsafe ones; to prevent the encroachment upon, projections over, injury to, or the incumbering of streets, alleys, wharves and public grounds;

6. To require bonds or undertakings to be given by the officers of the city and their deputies and to fix the amount thereof;

7. For the protection of the public health, to secure the proper registration of births, marriages, deaths and such other statistical information as may be necessary for the efficient working of the department of public safety;

8. To prescribe the duties of all officers or persons elected or appointed under this act, not herein prescribed; to prescribe the methods of auditing and paying any and every indebtedness of the city and any and every claim against the city; to prescribe the manner in which and the purposes for which the moneys annually appropriated may be used; to prescribe the methods by which the city may incur indebtedness; to prescribe the methods by which each and every official or person in the employ of the city shall keep or assist in keeping account of the receipts and disbursements of moneys belonging to the city, and of work done for or supplies or materials furnished to the city, any provision of this act to the contrary notwithstanding;

9. To pass such other and further ordinances not inconsistent

with the laws of the state as shall be deemed expedient for the good government of the city, the protection of its property, the preservation of peace and good order, the suppression of vice, the benefit of trade or commerce, the preservation of health, the prevention and extinguishment of fires, and the exercise of its corporate powers and the performance of its corporate duties.

§ 75. **Official newspaper.** The council shall designate one or more newspapers published in the city of Long Beach or in the town of Hempstead and printed in the English language to be the official papers of the city of Long Beach, and all proceedings of said council shall be printed therein and in such other newspapers as the council shall direct.

§ 76. **Ordinances, when in force; publication.** Every ordinance or resolution appropriating money, except for the regular expenses of the departments and pay rolls, or ordering any improvement or making or authorizing any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any purpose shall be complete in the form in which it is finally passed and every proposed ordinance shall be published once in full in a newspaper published in the city of Long Beach or in a newspaper published in the town of Hempstead and having a circulation in the city of Long Beach at least ten days before such ordinance is finally passed, except in cases of an emergency ordinance which may be passed as herein provided, which shall take effect upon passage and be so published within seven days thereafter and remain on file with the city clerk for public inspection at least two weeks.

§ 79.¹ **Council may borrow money.** The council may by resolution borrow money for any public or municipal purpose authorized by this act or general laws of the state and issue the obligations of the city and pledge its faith and credit for the repayment thereof, and to establish and maintain sinking funds for their amortization and redemption at maturity, but no obligation shall be issued for a term longer than the life of the improvement to be financed thereby and in no case for more than fifty years. All assessment bonds shall mature within ten years and shall be in anticipation of the collection of assessments levied or to be levied for local improvements. All bonds or other obligations of the city shall be in such form as the council shall prescribe. Such bonds may be an obligation of the city or, if the council so determine, such bonds may be payable out of a particular fund composed of collections of assessments for local improvements, financed wholly or in part out of the proceeds of such bond issue. If such bonds be payable out of such fund, as and when such assessments are collected, the amount thereof shall not be deemed an obligation of the city for the purpose of computing its debt limit; it shall, however, be obligatory on the part of the city to levy and collect such local assessments, and the part thereof that is fixed and determined and levied upon any parcel

¹ The original bill as introduced in the legislature contained sections numbered 77 and 78. However these were amended out before final passage.

of real estate shall remain a lien thereon prior to all other tax or other liens except only prior assessments for local improvements in anticipation of collection of which bonds may remain outstanding.

§ 80. **Council may rebuild public service plants.** The council of the city of Long Beach may, upon the adoption of an ordinance to that effect, passed unanimously or it may upon the affirmative vote of a majority of the electors of the city voting at any general or special election, enlarge, rebuild, remodel and equip the municipal lighting plant, water plant and sewage disposal plant of the city, and the cost thereof may be assessed upon the property benefited thereby or such cost may be paid out of the taxes levied and collected or by the issuance of bonds which shall run for a period not exceeding thirty years; or the council may contract for the work, material and equipment necessary to enlarge, rebuild, remodel and equip any or all of said plants or for any addition thereto, or any improvement thereon, or for the laying of any mains connected therewith, the contract for which may contain a provision that no payment thereon shall be made until the cost of said work shall have been ascertained and assessed upon and collected from the property owners benefited thereby or from the taxpayers liable to taxation upon the same. Upon ascertaining the total cost of such work the council may establish and fix zones of assessment and assess the cost thereof upon the local property specifically benefited thereby, or the council may contract for the reconstruction of such plant or plants and any alterations thereof or additions thereto, and for the purchase and installation of mains, poles, machinery and equipment, and assess the cost thereof upon the property of the city as a whole determined by the council to be benefited thereby; or such alterations, improvements and equipment may be paid for partly by the city and partly by local assessment.

§ 81. **Council may issue warrants.** The council in the name of and in behalf of the city may issue warrants or certificates to the respective contractors upon the completion of their work, payable out of the special fund or funds as the same may be collected from the taxpayers; or the council may in its discretion sell revenue bonds chargeable to such fund or funds and payable out of the same as and when it is collected from the taxpayers, which bonds shall not run for a period longer than five years from the date of such bonds.

§ 81-a. **Pavements; council may direct construction.** The council may, by ordinance, direct and require any street or public ground in said city, or any part of either of them, to be graded, paved or macadamized, or to be regraded, repaved or resurfaced, or otherwise improved or repaired, at the cost and expense of the owners of the lots or parcels of land adjacent to the street, or public ground, or part thereof, so graded, paved, macadamized, repaved or resurfaced, improved or repaired and of the public at large, which cost and expense shall be apportioned, assessed and collected as hereinafter provided.

§ 81-b. **Ordinance and notice to be published; hearing; action thereon.** The council shall cause the proposed ordinance for an improvement specified in the last preceding section to be published once a week for at least two successive weeks in the official newspaper with a notice that at the time and place to be stated therein, which shall not be less than fifteen days from the first publication thereof, it will meet to consider such ordinance, and that at such meeting all parties interested may be heard. The council at the time and place stated in such notice, or at such other time and place as shall then be appointed for such purpose, shall hear all parties interested in the matter of such ordinance who shall desire to be heard, and by a majority of the members then present may adopt, modify or reject such proposed ordinance.

§ 81-c. **Bonds may be issued; limitation of amount.** When ever, in the opinion of the council, the public interests require, or will be promoted by the expenditure of a greater amount of money in any one year for the paving, repaving, resurfacing or macadamizing of any street or streets, than in its opinion it is expedient to raise by direct taxation in said year, it may issue bonds in the manner and form prescribed in this act. Said bonds, principal and interest, shall be a lien upon all the taxable property of said city, real and personal, and such property is hereby pledged for the payment; and to pay the principal and interest coming due in any year upon said bonds the council shall have power to add the necessary amount to the annual tax budget as required, or such street grading and paving bonds may be issued in the manner provided in sections eighty and eighty-one hereof or such work of street improvement may be paid in the manner provided in section eighty-two hereof.

§ 81-d. **Contract price, when due; city may temporarily borrow on notes, or issue certificates.** The contract price for any pavement constructed under the provisions of this act shall be due and payable within sixty days after the acceptance of the work, and if sufficient funds are not on hand applicable to the payment of such contract price, the council, within the limitation of this act, is hereby authorized to issue to the contractor a certificate of indebtedness for any deficiency, or borrow the same upon the notes of the city, payable out of assessments collected or the proceeds of bonds issued for such payment.

§ 82. **Council may compel obedience to ordinances.** Whenever the owner or occupant of any lands shall omit to do any act required by ordinance to be done by him in front of or upon such land the council may cause such act to be done, and in addition to the fine may recover by action from such owner the cost of doing the act, or may assess the same upon such lands. If the land be low land or land under water the city may require the owner to fill and grade the same and upon his failure so to do the city may fill in such property and grade the same and may collect the cost of such work from the owner by action or may assess the same upon such lands. Such assessment may be collected in

instalments as any other assessments for local improvements levied by the city.

§ 83. **Council may authorize rewards.** The council may, by vote of four-fifths of its members, authorize the mayor to offer a reward for the apprehension of the perpetrator of crime committed within the city, or an offender against an ordinance, to be paid upon the conviction of such person.

§ 84. **Council may regulate weighing of coal.** The council may regulate the weighing of coal to be delivered to any purchaser or consumer in said city. For such purpose the council may annually designate a public scales and may provide by ordinance regulations for the weighing of such coal and for fines and penalties for those violating such ordinances.

§ 85. **Ordinances and resolutions.** (a) In legislative sessions the council shall act by ordinance, resolution or motion.

(b) The ayes and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of its proceedings. Upon the request of any member the ayes and nays shall be taken and recorded upon any motion. Every member when present must vote and every ordinance passed by the city council shall require on final passage the affirmative vote of a majority of all members of the council.

(c) No ordinance shall be passed finally on the date it is introduced, except in cases of special emergency, for the preservation of the public peace, health or safety, and then only by unanimous vote of all members of the council present. No ordinance making grant of any franchise or special privilege shall ever be passed as an emergency measure.

(d) The enacting clause of all ordinances passed by the council shall be in the following words: "Be it enacted by the council of the city of Long Beach."

§ 86. **Amendment or repeal.** No ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted.

§ 87. **Record of ordinances.** A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "Ordinance record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signature of the mayor.

§ 88. **Rules and regulations for the collection of garbage, ashes and refuse.** The council shall prescribe the general rules and regulations for the collection of garbage, ashes and refuse of the city, and contracts for the removal of the same shall be let as other contracts as herein provided. The said council shall authorize the construction of such incinerating plants as it deem necessary in such locations as it may determine to be proper and fit. It may authorize the purchase of scows, tugs and other boats, and trucks, horses, automobiles or auto trucks which it may deem necessary for the removal and disposal of such garbage, ashes and refuse from said city. No incinerating plant shall be located, nor any ash dump or landing place for the removal of ashes be

established, except upon the affirmative vote of four-fifths of the council.

§ 89. **Temporary vacancies in council, how filled.** If the mayor or any of the councilmen shall be unable to perform the executive or administrative duties of his office in consequence of sickness or temporary absence the council may designate one of its members to act in his place, and the member so designated shall perform such executive and administrative duties of such absent or disabled officer until he shall resume them.

§ 90. **Accommodations for departments.** The council shall provide the different departments with suitable rooms and accommodations and shall define the jurisdiction of each department except as herein specifically provided.

§ 91. **Council shall have powers of other boards.** The council has all the powers and is subject to all the liabilities and must perform all the duties of a separate board of water, light and sewer commissioners, if the council has not by ordinance established such separate boards; and until the council creates such boards, all provisions of law applying to either of such boards apply to the council.

§ 92. **Banks of deposit.** The council shall designate banks for the deposit of all moneys received by the treasurer, and may require of any such bank security for the payment thereof, and may require a report by the cashier thereof to each regular meeting of the council of the amount on deposit to the credit of the treasurer.

§ 93. **Auditing bills.** The council shall by ordinance provide for the proper auditing of all bills and claims against the city.

§ 94. **Further powers of council.** The council shall have such further powers as provided in article six hereof and other articles and as provided by general laws for common councils of cities of the third class, not inconsistent herewith.

§ 95. **Civil service commission.** The council shall establish civil service rules for the city departments and shall appoint civil service commissioners. The civil service commission shall in the manner defined by the civil service law and subject to and in pursuance of the provisions of such law and of all amendments that may from time to time be made to it, prescribe, amend and enforce rules for the classification of the officers, places and employment in the public service of the city, and for the appointments and promotions therein, and examinations therefor, and for the restriction and selection of laborers or employment therein.

§ 96. **Council may establish board.** The council may establish a separate board of fire, water, light, sewer, park, playground and boulevard, plan and zone, recreation, public welfare or other boards or a board possessing the powers of two or more such boards and prescribe the duties of such board or boards and provide for the appointment of commissioner thereof which may by ordinance authorize, empower and direct such board or boards to audit and order paid all bills and accounts incurred by such board

or boards and which are payable out of the funds within the jurisdiction of such board or boards. Council may give names to the streets, parks and public places and numbers to the lots or villages.*

§ 97. **Parks.** The council shall:

1. Have authority to conduct at reasonable charges such facilities for the amusement, entertainment, refreshment or transportation of the public as are suitable to public parks, and may let privileges therefor, but such privileges shall be subject to supervision and direction of the council;

2. Plant, set out, or place and protect and care for flowers, vines, shrubs, and trees to adorn and improve the public squares, grounds, streets, avenues, alleys or spaces within the city, the cost of which or any part thereof to be provided for by general taxation or by special assessments in local assessment districts, or both, as may be prescribed by ordinance: Provided, that all original landscape work in parks and boulevards hereafter acquired shall be approved by the city plan commission.

ARTICLE 6.

ASSESSMENT; LEVY; COLLECTION OF TAXES.

Section 100. Levy of taxes by council; tax rolls.

101. Maximum amount of annual city tax levy.

102. Annual reports and estimates by boards and officers.

103. Tax district; board of assessors.

104. Completion of assessment roll.

105. Review of assessment.

106. Equalization and levy for state and county taxes.

107. Issue of tax roll and warrant to the treasurer.

108. Notice to taxpayers.

109. Tax receipt.

110. Treasurer shall mail tax bills.

111. Collection of taxes by civil action.

112. Proceeding in case of failure to collect tax on warrant.

113. Sale of land for unpaid taxes.

114. Manner of conducting sale of land for nonpayment of taxes.

115. Disposition of proceeds of sale.

116. Redemption of lands.

117. Notice of redemption.

118. Conveyance of real estate sold for taxes.

119. Power of council as to void and erroneous assessments.

120. Collection of local assessments.

§ 100. **Levy of taxes by council; tax rolls.** The council must annually cause to be levied and raised by general tax upon all taxable property, real and personal, in the city according to the

* So in original.

valuation upon the assessment roll for the current year corrected as herein provided:

1. The amount of taxes certified to the council by the board of supervisors to be assessed upon the city.

2. The amount of all interest and any instalment of principal falling due upon the bonds or other permanent debt of the city, which shall be kept in a separate fund to be called the public debt fund;

3. The amount necessary to defray the expenses for the next fiscal year as authorized and provided by this act.

§ 101. **Maximum amount of annual city tax levy.** The council may raise by tax upon the real and personal property assessable in the city in each year certain amounts which shall be estimated and designated for the following purposes:

1. For the payment of the expenses of the police department, including the salary of the city judge and the salaries of the officers of said department, to be designated the court and police fund;

2. For paving, repairing and keeping in order the streets, crosswalks, gutters, lands, public places and grounds of said city, for the service of the city engineer, the superintendent of public works and his assistants and employees, the erection and maintenance of bridges and culverts and other expenses relating to streets and highways, to be designated the public works fund;

3. A sum deemed necessary by the council for assisting the volunteer fire department in establishing a fire alarm system, maintaining its engine houses, hose carts, hook and ladder carts and other apparatus in good condition and deemed by the council necessary for the extinguishment of fires, and the proper protection of property in the city of Long Beach, to be designated the fire fund;

4. A sum necessary for the payment of the expenses of the department of charities, to be designated the poor fund;

5. A sum necessary for the purposes and uses of the board of education, to be designated the school fund;

6. A sum necessary for the lighting of the streets and public buildings of the city and expenses of maintaining all necessary apparatus and fixtures connected therewith, and any sum necessary for the maintenance, operation, enlargement or extension of the lighting plant of the city, to be designated the lighting fund;

7. A sum necessary for supplying water to the public buildings of the city and water for the extinguishment of fires, and any sum necessary for the maintenance, operation, enlargement or extension of the water plant of the city, to be designated the water fund;

8. A sum necessary for the maintenance, operation, enlargement or extension of the sewerage system of the city, to be designated sewerage fund;

9. A sum necessary for defraying general and contingent expenses, for the payment of all salaries and other expenses not otherwise provided for, to be designated the general city fund.

The aggregate for the annual tax levy for all purposes in this section above provided shall not exceed the rate of two per centum of the assessed valuation of the real and personal property liable to taxation in said city, as the same shall appear from the assessment roll of said city for the current year. In addition to the amounts shall be included such amount as shall be necessary to meet the principal and interest on the bonded and other indebtedness of the city falling due during the fiscal year for which the tax is levied, and to meet all indebtedness remaining unpaid on all judgments against the city; and such further sums as shall have been voted at a regular city election or at a special city election called for the purpose, and also for such other sums as the council is authorized to expend for purposes specified in this act.

§ 102. **Annual reports and estimates by boards and officers.** Between the first and the thirty-first days of October in each year each department in the city shall estimate in detail the expenses and income of their respective departments for the next fiscal year and shall certify such estimates to the council. The city judge shall present an estimate of the amount of fines and penalties that, in his judgment, will probably be received by the city court during the next fiscal year. The city clerk shall make a detailed statement of items of all the expenses of the city as estimated by it for the next fiscal year. The city clerk shall also make in his report a statement in detail of all judgments against the city then remaining unpaid, and an itemized statement of the principal and interest on all bonded and other indebtedness of the city that will fall due during the next fiscal year. The treasurer shall present a statement to the council of all unpaid taxes and local assessments theretofore assessed and remaining unpaid. The treasurer shall also in his report make a statement in detail of the amount of unpaid taxes and local assessments theretofore assessed and remaining unpaid and the amount which in his judgment will probably be received by the city therefrom during the next fiscal year, and all expenditures made or incurred by the city and chargeable to the property owners or other persons remaining unpaid and the amount which in his judgment will probably be received by the city during the next fiscal year. The council shall cause such estimates and statements to be published in the official newspaper of the city during the next week after its first regular meeting in the month of November. At that meeting or at any subsequent meeting of the council, not later than the first day of December next following, it shall revise such estimates, and determine and fix the entire amount necessary to be raised to defray the expenses of the city for the ensuing fiscal year. Said council may by a vote of four-fifths of its members approve or reduce, but shall not increase any of the estimates of the various boards or departments aforesaid, and shall immediately levy the aggregate amount taxed, ascertained and determined, together with any special tax which shall have been voted to be raised with the annual tax levy.

§ 103. **Tax district; board of assessors.** The city shall constitute a tax district. The three assessors of the city shall constitute the board of assessors. The elective assessor shall in each year prepare an assessment roll of the persons and property within the city in substantially the same manner and form as is required by law for the preparation of town assessment rolls in the towns of the county of Nassau; unnecessary columns shall be omitted therefrom and necessary columns shall be added thereto as such board may determine. The board of assessors by a majority vote of the three members shall, in the first instance and prior to the review thereof, fix and establish all values and assessments thereof in all respects as herein provided. The elective city assessor shall perform all the duties required of him by this act in relation to the assessment of property in said city as well as for the purpose of imposing taxes levied by the board of supervisors of Nassau county as those levied by the council of said city and to that end he shall perform all the duties and possess all the powers and authority of town assessors, except as modified by this act. He shall as fast as fixed and estimated by him, and within a reasonable time after estimating and appraising values, exhibit and furnish to the board of assessors all values and assessments as estimated by him, and the majority of said board shall fix and establish all values and assessments prior to the first day of May in each year and, prior to the completion, filing and review thereof, and shall meet together from time to time for such purpose.

§ 104. **Completion of assessment roll.** The board of assessors on the first day of June in each year except nineteen hundred and twenty-two shall complete such assessment roll and shall file the same with the city clerk and give notice for thirty days by posting in three public places in the city and by publication thereof in the official newspaper once in each week during said time that such assessment roll is completed and filed, and that all persons interested may examine the same at the city clerk's office, and that also on the first Tuesday of July next ensuing, at a place specified in such notice, the board of review will sit to review the same.

§ 105. **Review of assessment.** The board of assessors shall constitute a board of review. Such board shall meet at a time and place specified in the notice mentioned in the preceding section and review the assessment. Its sessions shall not aggregate more than seven days nor be continued beyond the first day of August. During the time the assessors review any tax assessment they shall have power to add or insert in such assessment roll any property liable to assessment and the valuation thereof which may have been omitted from such roll upon giving notice to the owner of such property or to his agent at least two days prior to adding the same. Except as modified by this act, the board of review shall have all the powers given by the tax law to assessors sitting to hear complaints in relation to assessments, and the proceedings in relation thereto shall be the same as provided by the

tax law. Any person assessed upon the assessment roll claiming to be aggrieved by any assessment for property therein may review the same in the manner provided by the tax law. On or before the first day of September the corrected assessment roll together with the minutes of the board shall be filed in the office of the city clerk.

§ 106. **Equalization and levy for state and county taxes.** The city clerk shall immediately upon the filing of the corrected assessment roll and minutes proceed to prepare the roll for the ensuing year. He shall upon the written direction of the assessors correct all clerical errors appearing therein, make a true copy of the assessment roll as corrected, certify it under the seal of the city and deliver it to the chairman or clerk of the board of supervisors of the county of Nassau at its next meeting. The board of supervisors shall in each year equalize the assessments within the city of Long Beach with the assessments of the towns in the county, in the same manner as the assessments are required to be equalized between such towns. The board of supervisors shall not cause the state and county tax apportioned to said city to be spread upon any tax roll of property within the city, but shall by resolution ascertain and direct the amount of tax to be levied in the city for state and county purposes, and shall on or before the fifteenth day of October in each year certify such resolution under the hands of the chairman and the clerk of the board of supervisors to the council of the city and file such resolution with the city clerk, and the city clerk shall thereupon extend and apportion such tax on the assessment roll together with the city taxes levied as hereinafter provided, and no other extension and apportionment of such state and county taxes need be made.

§ 107. **Issue of tax roll and warrant to the treasurer.** The city clerk under the direction of the council shall extend and apportion the city tax on the assessment roll delivered to him in each year and shall forthwith file the same in his office. He shall make one copy of the same with the tax so extended and apportioned, and shall certify such copy to be a correct duplicate city roll of state, county and city taxes; such roll shall then, on or before the first day of December or as soon thereafter as practicable, be delivered to the treasurer of the city with a warrant annexed, under the seal of the city, signed by the mayor or acting mayor and the clerk of the city, commanding him to receive, levy and collect the several sums in the roll specified as assessed against the persons or property therein mentioned or described with such percentage or penalty and interest as in this act provided in the manner provided by law for the collection and levying of county taxes by town collectors, and with the additional powers conferred by this act. All taxes assessed and levied upon real estate in the city of Long Beach shall be a lien upon such real estate for the amount thereof, as of December first, and if not paid on or before January tenth following, such taxes shall bear interest and penalties as follows: If paid on or before January first fol-

lowing, no penalty; if paid thereafter and on or before March first, the penalty shall be at the rate of seven per centum per annum; if paid thereafter, the penalty shall be one per centum per month. Such penalty shall be collected with and in the same manner as the taxes and shall be a lien on such property until paid.

§ 108. **Notice to taxpayers.** Immediately upon receipt of the warrant and on or about December first of each year, the treasurer shall publish a notice in the official newspaper of the city that all taxes are due and payable, and if not paid on or before January tenth, such taxes shall bear the penalty herein provided.

§ 109. **Tax receipt.** Immediately upon receiving any tax the treasurer shall enter in a column prepared for the purpose and opposite the names of the persons or corporations paying the same, the fact of payment, date thereof, and shall give the person paying the same a receipt therefor. Any person may pay any one or more taxes or assessments upon his property, leaving others unpaid to be enforced in the manner provided by this act. All receipts issued by the treasurer for taxes paid to him shall be numbered consecutively, commencing with number one on the first receipt issue for taxes for any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt, but shall use a separate and distinct series of numbers on receipts issued for the taxes of each year for which the same is levied and assessed. The city clerk shall cause all tax receipts to be printed and numbered and firmly bound together in book form, and to be in triplicate, and each triplicate shall bear the same number.

§ 110. **Treasurer shall mail tax bills.** On or before December first of each year the treasurer shall mail to every taxpayer whose address is known to him a tax bill, together with a copy of the notice published as herein provided.

§ 111. **Collection of taxes by civil action.** The treasurer is hereby authorized and empowered to recover by an action in any court of competent jurisdiction and in the corporate name of the city, the amount of any tax remaining unpaid after the expiration of ninety days with the additions and fees unpaid thereon, and to recover judgment therefor with the penalties due thereon as herein provided, together with the costs and expenses of such action. A transcript of the judgment obtained in such action may be filed, and such judgment docketed, in the office of the clerk of Nassau county, and it shall, however small the amount, thereupon become a judgment of the county court of said county and a lien to the amount of said judgment upon all real estate of the judgment debtor situated in said county. Upon any judgment recovered for said unpaid taxes, and docketed in said county clerk's office, execution may be issued and collected as provided by law, and all the provisions of law with reference to the sale and redemption of real estate on execution, or to proceedings supplementary to execution, shall apply to sales, redemptions or such proceedings which may be had under this act.

§ 112. **Proceeding in case of failure to collect tax on warrant.** On or before the fifteenth day of June next after any tax shall have been imposed upon any real estate in said county the treasurer shall make and deliver to the assessor a transcript of any and all such taxes which remain unpaid, and it shall be the duty of the assessor, on or before the fifteenth day of July thereafter, to make and deliver to the treasurer a statement containing a brief general description of the location, boundary and estimated quantity of each parcel of said lands, and in case any such lands shall have been erroneously assessed, it shall be the duty of such officer to make and include in said statement a correct assessment of the same valuation as before, and such corrected assessment and the amount of taxes levied upon said lands shall be as valid and effectual for all purposes as though they had originally been corrected.

§ 113. **Sale of land for unpaid taxes.** Whenever any such tax, penalty or interest, or any part of either of them, shall remain unpaid on the first day of August, the treasurer shall proceed to advertise and sell the lands upon which the same was imposed for the payment of such tax, penalty or interest, or the part remaining unpaid, and the expense of such sale as hereinafter prescribed shall also be a charge upon such lands.

§ 114. **Manner of conducting sale of land for nonpayment of taxes.** Each parcel shall be sold at public auction to the highest bidder and the sale shall be conducted in every way similar to the sales conducted by county treasurers as required under the tax law.

§ 115. **Disposition of proceeds of sale.** The proceeds of sale of each parcel, other than those struck off to the city, shall be applied to the payment of expenses of the sale as herein provided, and the extinguishment of the tax penalty and interest for which it was sold, and if there be any residue the treasurer shall hold the same until the owner of the premises shall redeem them from the sale as herein provided.

§ 116. **Redemption of lands.** The owner of, or any person interested in or having a lien on, any parcel or lot so sold may redeem the same from such sale at any time within two years by paying the treasurer for the use of the purchaser or his assigns the sum mentioned in the certificate as having been bid for the premises with interest thereon as provided herein, together with all costs and expenses of such sale, together with any tax or assessment upon said parcel or any part thereof up to and including the date of redemption.

§ 117. **Notice of redemption.** The treasurer shall publish a list of all property not redeemed within a period of two years and give notice to those interested therein that if such property be not redeemed within three months such property will be conveyed to the purchaser at the tax sale, or his assigns. A copy of such notice shall be served personally upon the owner, if his address can be obtained, and upon the occupant of the lands or, if unoccupied, posted on the premises, at least twenty days before

the expiration of such time for final redemption, and such notice shall also be posted on the bulletin board in the local post office.

§ 118. **Conveyance of real estate sold for taxes.** If any parcel or lot so sold shall not be redeemed as herein provided, the treasurer, immediately after the expiration of said two years and three months, shall execute and deliver to the purchaser, his heirs or assigns, or to the city or its assigns, a conveyance of the real estate so sold, which conveyance shall vest in the grantee an estate in fee, subject only to the liens, if any, of unpaid taxes or assessments. The treasurer shall be entitled to and receive from the grantee two dollars for preparing every such conveyance. All purchases made by the city shall be included in one conveyance.

§ 119. **Power of council as to void and erroneous assessments.** The council of the city may, in its discretion, release, discharge, remit or commute any portion of the taxes assessed or levied against any person or property for any error, irregularity or omission in the levy of said taxes, or in any of the proceedings relating to the same.

§ 120. **Collection of local assessments.** Whenever an assessment shall be ordered for local improvements the assessment shall be made to resemble in form as nearly as practicable the tax list and be provided with a column in which payments can be entered by the treasurer. All provisions relating to the collection of taxes in this act shall be applicable to the collection of assessments mentioned in this act.

ARTICLE 7.

BOARD OF HEALTH.

Section 123. Board of health.

§ 123. **Board of health.** The city board of health shall consist of the mayor and six other persons, one of whom shall be the city physician. The members of the board of health shall be appointed by the council upon the nomination of the mayor, and shall hold office for three years as provided in the public health law. Such board of health shall have all the powers and be subject to all the duties provided by the public health law.

ARTICLE 8.

CITY ELECTIONS; GENERAL; SPECIAL; HOW CONDUCTED.

Section 125. The first city election; other elections.

126. Village trustees to conduct first city election.

127. Canvass of election.

128. General city elections, how conducted.

129. City one election district.

130. Canvass of vote at regular city election.

§ 125. **The first city election; other elections.** A general municipal election for the choice of mayor, three members of the council, one supervisor, a city judge and one tax assessor pro-

vided for in this charter shall be held on the third Tuesday in May, nineteen hundred and twenty-two; and thereafter beginning the first Tuesday after the first Monday in November, nineteen hundred and twenty-five, there will be held a general city election on the first Tuesday after the first Monday in November of every fourth year. All other elections held under the provisions of this charter, except primary elections, shall be known as special municipal elections.

§ 126. **Village trustees to conduct first city election.** The board of trustees of the village of Long Beach shall conduct the first election, as herein provided, of city officers of the city of Long Beach. They shall, with the president and clerk of the board, be the inspectors of election and shall appoint poll clerks, ballot clerks and other officials necessary to carry on such election. They shall provide the necessary ballots, ballot boxes, booths, places of election and do all that is necessary to carry on said election. The first election of city officials and the nominations therefor shall in all respects be conducted as the annual election and nominations therefor of officers of a village, except as herein otherwise provided. The village clerk shall give and post all necessary notice of officers to be elected. The list of such officers shall be those enumerated as elective officers in this act. All persons qualified to vote for village officers in the village of Long Beach shall be entitled to vote for city officers at the first election.

§ 127. **Canvass of election.** Immediately upon the closing of the polls the inspectors of election shall proceed to canvass the votes cast thereat and to announce the result as provided in section fifty-three of the village law.

§ 128. **General city elections, how conducted.** The council shall provide polling places, ballot boxes and other necessary apparatus and material in each election district in said city for all elections in said city, and the manner of conducting such elections shall in all respects conform to and be governed by the general laws of this state in respect of elections in cities of the third class, not inconsistent with this act. At each such election, other than as herein provided, a successor shall be elected to each elective city officer whose term of office shall expire with the year in which such election is held. Public notice of every election under this act, except the first election and except as hereinafter provided, shall be given by the council, the notice thereof to be published in the official newspaper of said city at least once in each week for two successive weeks immediately preceding the holding of such election, which notice shall designate the officers to be voted for at such election and the location of each polling place, or by such notice and in such manner as may be required by the election law. The polls of each general election and of each special election in said city at which one or more city officials are to be elected shall be opened and kept open and closed in each district as provided by the election law for general elections, and the inspectors shall canvass all

votes cast for city officers and declare and make a statement of the result in the same manner as required by the general laws of the state, and file the same immediately with the city clerk, except as otherwise provided in this act. The city clerk shall at least one week before the date fixed by law for the first meeting of the board of registry for a city election, notify each inspector of election in writing of his appointment as such inspector, and of each day for the meeting of the board of registry in each election district of the city and the date of such election. Every inhabitant of said city who shall, at the time and place of offering his vote, be qualified to vote for member of assembly shall then and there be entitled to vote for all officers to be elected by the city. To entitle any elector to vote upon a proposition to raise money by tax or by bonds he must be entitled to vote for a city officer and must also be the owner of property in the city assessed upon the last preceding assessment roll thereof. Such proposition to raise money by tax or by bonds shall be deemed carried if it receives the affirmative vote of a majority of the entire number of votes cast thereon at said election. No elector of said city shall vote in any election district except that in which he shall reside at the time he offers his vote and shall have so resided for at least thirty days immediately prior to the election at which he offers his vote.

§ 129. **City one election district.** The entire city shall constitute one election district until some further division be made by resolution adopted by the council or pursuant to the election law.

§ 130. **Canvass of vote at regular city election.** The council of said city shall meet as a board of city canvassers on the next Thursday after each regular city election. The city clerk shall present to the council at said meeting, the certified statements of the result of such election in such election district of the city as delivered to him by the inspectors of election of such district. The council shall canvass such certified statements and declare the whole number of votes cast for all the candidates for each office to be filled at such election, the number of votes cast for each such candidate and what person was elected. The person having the greatest number of votes for the respective offices to be filled shall be declared duly elected. In case of a tie vote the mayor and council shall fill such office by appointment for the full term. The city clerk shall enter such determinations and declarations in the minutes of the meeting of the council.

ARTICLE 9.

DEPARTMENT OF PUBLIC INSTRUCTION.

Section 141. City permanent school district.

142. Board of education.

143. District board continued as city board; succession to property and obligations.

144. Appointment of members of the board of education and organization of board.

Section 145. General powers and duties of president.

146. Clerk and his general duties.

147. General powers of board of education.

148. Powers of board of education to raise tax for support of schools.

149. Payment of funds to treasurer.

150. Powers of board of education to purchase sites, or addition to any site, or erect or enlarge any school building.

151. Annual report of board of education.

152. State commissioner of education to apportion state moneys.

153. Council shall pass ordinances for protection of school property.

154. Charges of misconduct or neglect of duty of any member of board of education.

155. Report of superintendent of schools.

156. District a union free school district.

§ 141. **City permanent school district.** The city shall form a permanent school district and shall not be subject to alteration by the district superintendent of schools. Such district shall be entitled to all the rights, powers, privileges, public moneys and other benefits conferred upon school districts by law or other state authority, and shall, except as otherwise provided in this act, be subject to all the rules, regulations, powers of inspection and superintendence prescribed by law applicable to city school districts.

§ 142. **Board of education.** The affairs of said school district of the city of Long Beach shall be managed by a board of five members to be appointed in the manner provided in this act, which board shall be known and designated as the board of education of the city of Long Beach. Said board and its successors shall possess all the powers conferred, and discharge all the duties imposed, by this act or by any general law of the state relating to school districts in cities or relating to boards of education of such districts, and not inconsistent with the provisions of this act.

§ 143. **District board continued as city board; succession to property and obligations.** The present members of the board of education of union free school district number twenty-eight of the town of Hempstead shall constitute the board of education of the city of Long Beach and shall be members of such board until their successors are appointed and qualified as provided in this act, and the title to all real estate and personal property now belonging to said union free school district is hereby vested in the city of Long Beach, and all moneys and funds belonging to said district shall be paid over and delivered to the treasurer of said city and credited by him to the school fund of said city. All the rights, powers, privileges, contracts, obligations and liabilities of said union free school district are hereby transferred

to, vested in and imposed upon the city of Long Beach as hereby created; and the rights and privileges of all persons that may have arisen or accrued before this act takes effect shall remain and be enforced by or against said city in the same manner and with like effect as the same might have been enforced by or against the board of education of union free school district number twenty-eight of the town of Hempstead if this act had not been passed, subject, however, to the provisions of this act.

§ 144. **Appointment of members of the board of education and organization of board.** On or before the fifth day of June, nineteen hundred and twenty-two, the mayor of the city shall appoint five members of the board of education as follows: One member for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years, and one member for a term of five years, and in each year thereafter the mayor shall appoint one member in the place of the one whose term of office expires. The members of the board of education shall at its first meeting and thereafter at the first meeting in February in each year elect one of their number as president who shall hold office for the ensuing year.

§ 145. **General powers and duties of president.** The president of the board of education shall preside over meetings of the board when present, and perform such executive acts and duties as are required by this act and general laws and such other lawful business as shall be given him or her in charge by said board.

§ 146. **Clerk and his general duties.** The clerk of the board shall be its secretary, keep its minutes and perform such other duties as may be required by law or prescribed by the board.

§ 147. **General powers of board of education.** Subject to the provisions of this act and of the education law the board of education of the city of Long Beach shall have power and it shall be its duty:

1. To establish and organize in said city such and so many free schools as it shall deem requisite and expedient, and to change or discontinue the same at its discretion;

2. To alter, improve and repair school houses and appurtenances as it may deem advisable;

3. To purchase, sell or exchange, improve and repair school apparatus, books, furniture and appendages and to defray the necessary expenses attending the same;

4. To have the custody and safe keeping of the school buildings, lots, books, furniture and appendages and to see that the ordinances and by-laws of said city in regard thereto are enforced and any violation thereof punished;

5. To contract with and employ all necessary teachers for the schools of the city under such conditions, rules and regulations as may be established by the board, provided that such rules and regulation are in accord with the general laws of the state and the rules and regulations prescribed by the commissioner of education of the state;

6. To pay the salaries of the clerk of the board and teachers out of any moneys appropriated or provided by law for that purpose;

7. To defray the necessary expenses of the board and district including the wages of janitors and other assistants and employees, and incidental expenses;

8. To expend all moneys raised by virtue of this act for purchasing sites, erecting or enlarging school houses, or for other purposes, in such a manner as may be deemed advisable, but only for the purposes for which the same was raised;

9. To take and appropriate lands and other real property within said city for school purposes upon making compensation therefor in the same manner and under the same proceedings as prescribed in this act and as conferred upon the board of public works for opening streets and highways;

10. To have, to the exclusion of all boards and officers except the superintendent of schools and the regents of the university of the state of New York, the entire supervision and management of the schools of said city; from time to time to adopt, alter, modify or repeal as it may deem expedient rules and regulations for its organization, government and instruction for the reception of pupils and their transfer from one school room or school house to another, for their advancement from class to class as their degree of scholarship shall warrant, and generally to promote good order, efficiency and prosperity of all the schools of the city;

11. To allow the children or persons nonresident within the city to attend any of the schools therein under the control of said board upon such terms as said board may by resolution prescribe;

12. To establish and maintain a city school library or a public library and provide suitable rooms for the use of the same; to exercise the same discretion as to the disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts;

13. Except as otherwise provided in this act, to exercise all the powers conferred upon the inhabitants of school districts at school district meetings;

14. Except as otherwise provided in this act, to exercise all the powers conferred, and all the duties imposed by the general laws of the state applicable to boards of education in cities.

The records of the proceedings of said board, or a transcript thereof, certified by its president and clerk, shall be received in all courts or places as prima facie evidence of the facts thereon stated.

§ 148. **Powers of board of education to raise tax for support of schools.** On or before the fifteenth day of October in each year the board of education shall prepare a statement of such sums of money as it shall deem necessary during the fiscal year

commencing with the first day of January next ensuing for each of the following purposes:

1. For wages of principals and teachers after applying such of the public school and other moneys as may be applicable thereto;

2. For the maintenance of a high school, if one shall have been established, and the payment of the teachers thereof after applying such of the public school and other moneys as may be applicable thereto;

3. For the repair of schoolhouses and grounds with the appendages and appurtenances;

4. For the purchase, repair and improvement of school apparatus, books, furniture and fixtures;

5. For the purchase of fuel and lights and to pay contingent expenses of the district, including the salaries of janitors, assistants, employees and incidental expenses.

When such statement is filed with the city clerk the council shall include in the annual tax and assessment-roll for that year the amount specified in said statement. In case said amount exceeds the limitations above specified it may be included in the annual tax and assessment-roll for that year by resolution of the council passed by a four-fifths vote of all the members thereof; otherwise the entire statement shall be returned to the board of education and it shall thereupon be the duty of said board to prepare a new statement in the same manner as the former, but the total amount of which shall not exceed the limitation of one-third of one per centum of the total assessed valuation of all the property within the city as appears by the last preceding assessment-roll. The amount specified in said statement included in the annual tax and assessment-roll of the city shall be collected by the city treasurer who shall credit the same to the school fund.

§ 149. **Payment of funds to treasurer.** All public moneys or public funds belonging or appropriated to the use of said school district number twenty-eight of the town of Hempstead shall be paid to the treasurer of the city of Long Beach who shall keep the same separate from the general funds of the city and shall credit to the school fund the moneys or property belonging thereto. The board of education shall disburse all the school funds of said district by orders upon the treasurer signed by the president; such orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person to whom payable. Upon request from said board the treasurer shall certify from time to time the balance remaining to be collected by or paid to the city treasurer for school purposes. It shall not be lawful for said treasurer to apply such moneys or any part thereof to any other purpose or object.

§ 150. **Powers of board of education to purchase sites, or addition to any site, or erect or enlarge any school building.** Whenever the board of education shall resolve by an affirmative

vote of four-fifths of its members that it is necessary to purchase a site, or addition to any site, or erect any school building or enlarge any school building already erected, it shall specify in such resolution the district or zone within which such site is to be purchased or building erected or enlarged, and the particular sum required for each separately. The board of education shall then deliver a certified copy of such resolution to the mayor, who shall within thirty days of the receipt of such resolution call a special election of the electors of said city to vote for or against such appropriations as the proposed expenditures will impose. Said election shall be conducted and the result declared and certified pursuant to the provisions and in the manner prescribed for conducting special elections provided elsewhere in this act. In case a majority of the votes cast be in favor of said appropriations the council shall borrow on the faith and credit of the city the aggregate of the items having such majority, or any part thereof, at any time before and until the same can be provided for according to law. The council shall issue bonds or other evidence of indebtedness in such forms as it may prescribe at an annual rate of interest not exceeding six per centum and payable at such times and in such amounts as the council shall determine. Said bonds or any part thereof may be sold by the council in such a manner as it may deem best, but at not less than the par value thereof. The board of education, after completing the work or other objects for which said money may have been raised, may apply any unexpended balance that may remain to any object authorized or contemplated by this act. The board of education may borrow money from banks or trust companies in anticipation of the collection of taxes. Such money borrowed shall be credited to the account of the city and placed in the school fund and the city treasurer shall pay out and account for the same as any other money in such fund. The city treasurer shall pay the notes given by the board of education at maturity out of taxes collected. The receiver of taxes for the town of Hempstead shall turn over and pay to the treasurer of the city of Long Beach all money collected by him that is due and payable to union free school district number twenty-eight of the town of Hempstead, and such money shall be credited to the school fund.

§ 151. **Annual report of board of education.** It shall be the duty of the board of education, on or before the tenth day of January in each year, to make to the council a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any source during the last fiscal year; and such report shall be published by the council in connection with and as a part of the annual report of the financial transactions of the city which are required by law to be printed and circulated. Said board shall also make report to the commissioner of education and such reports shall be made in the manner and at such times as he may direct.

§ 152. **State commissioner of education to apportion state moneys.** It shall be the duty of the commissioner of education of this state to apportion for the use of the board of education of the city of Long Beach such portions of the school, school library and other public money as it shall be entitled to by its annual report, in the same manner as such moneys are apportioned to cities, and the amounts to which it shall be so entitled shall be certified to the county treasurer of Nassau county. The county treasurer shall pay over to the city treasurer of the city of Long Beach, for the use of the board of education of said city, such proportion of the school, school library and other public money as may be apportioned by law or by the commissioner of education to the board of education of the city of Long Beach for teachers' salaries, school library and other school purposes.

§ 153. **Council shall pass ordinances for protection of school property.** The council shall have the power and it shall be its duty to pass such ordinances and by-laws as the board of education shall report necessary for protection, safe-keeping, care and preservation of said district, and to impose such penalties for the violation of the same as it shall deem proper.

§ 154. **Charges of misconduct or neglect of duty of any member of the board of education.** Charges of misconduct or neglect of duty on the part of any member of the board of education may be presented to said board by any member thereof, or by any elector of the city of Long Beach, and such charges shall be duly examined by such board at a regular or special meeting, of which the accused member shall have at least five days' notice, but at such meeting such accused member shall not be entitled to vote. If at such meeting after hearing the evidence on both sides, the board shall deem the charges against the member sustained, all the papers and documents in the case, with a transcript of the proceedings of the meeting, shall be transmitted by the clerk of the board of education to the state commissioner of education, and upon his approval of the findings of the board, the accused member shall be removed and his place deemed vacant. All vacancies in the board of education occasioned by the resignation, refusal to serve, death or removal of any of its members shall be filled for the unexpired term by appointment by the mayor.

§ 155. **Report of superintendent of schools.** The superintendent of schools of the city of Long Beach shall confer with and act under the direction of the board of education of said city in the performance of his duties. He shall, subject to the direction of said board, have general control and supervision of the public schools in said city and the principal of each school shall have supervision over the school in which he presides and of the teachers employed therein, and shall, on or before the first day of July in each year, or at such other time or times as shall be required by the board of education, report in writing to the board on the following subjects:

1. The whole number of schools within the jurisdiction of the board of education, their cleanliness and sanitary condition;

2. The repairs or alterations, if any, that are necessary for each of said schools;

3. The condition of the school furniture, apparatus and books in the several schools, and the repairs and additions thereto that may be necessary;

4. The number of teachers employed in the several schools, their grade of work and their efficiency, with suggestions as to the increase or decrease in the number thereof;

5. The number of pupils registered at each school, the average daily attendance and the number of pupils enrolled in each grade in the several schools;

6. Such changes in the organization and curriculum of any or all of the schools as he may deem advisable;

7. Such other information in relation to the city schools as may be of interest to the people of the city of Long Beach.

§ 156. **District a union free school district.** The said district shall be deemed and is hereby declared to be a union free school district under the education law. All provisions of law not inconsistent with the provisions of this act applicable to school districts whose limits correspond with any incorporated city, and the boards of education therein, and the corporate authority of such cities are made applicable to the school district hereby established, and to the board of education thereof, and to the corporate authorities of the city of Long Beach.

ARTICLE 10.

FIRE DEPARTMENT.

Section 160. Fire commissioners.

161. Powers and duties of commissioners.

162. New equipment.

163. Officers; members; volunteers.

164. Further powers of commissioners.

§ 160. **Fire commissioners.** The mayor may appoint a board of fire commissioners composed of three members for the term of one year, two years and three years, respectively, and each year thereafter the mayor shall appoint one commissioner for the full term of three years.

§ 161. **Powers and duties of commissioners.** The fire commissioners shall have general supervision over the fire departments of the city, whether volunteer or paid, or partly volunteer and partly paid. They shall from time to time cause to be examined all fire apparatus and equipment and determine whether or not such apparatus and equipment is adequate for the proper protection of the city. They shall from time to time make recommendations to the various fire departments and to the council. If upon inspection hose or other equipment be found defective the commissioners shall order the same replaced. No hose or other

equipment shall be used after the same has been condemned by the commissioners.

§ 162. **New equipment.** The fire commissioners may recommend to the council the purchase of fire houses, fire engines, hose and other fire equipment, a fire alarm system and all other apparatus for use in extinguishing fires, and the council may appropriate and raise by taxation money for such purpose.

§ 163. **Officers; members; volunteers.** The fire force of the city shall consist of volunteers until the council shall by ordinance provide for a paid or partly paid department. The council may, upon the recommendation of the commissioners, employ expert fire fighters and instructors to work with the volunteers and fire officers of experience; or the council may, upon the recommendation of the commissioners enter into agreements with the various volunteer fire departments for the adequate protection of the city against fire.

§ 164. **Further powers of commissioners.** Such commissioners shall have such other powers as may be conferred upon them by ordinance not inconsistent herewith or with the laws of the state.

ARTICLE 11.

DEPARTMENT OF PUBLIC WORKS.

Section 170. Commissioner.

171. Mayor: acting commissioner.

172. Deputy commissioner.

173. When commissioner shall be appointed.

174. Qualifications; term of office; vacancies.*

175. Accounts; records.

176. General powers; duties.

177. Public improvement.*

178. Application of funds; annual estimates.

179. Annual reports.

180. Complaints.

181. Legislation by council.

§ 170. **Commissioner.** There shall be a department of public works and a commissioner thereof who may be appointed as hereinafter provided.

§ 171. **Mayor: acting commissioner.** The mayor shall be the commissioner of public works, with all the powers and duties of such office, as herein provided, and as provided by the laws of the state, until the council determines, as hereinafter provided, that a commissioner shall be appointed by the mayor.

§ 172. **Deputy commissioner.** The mayor shall appoint a deputy commissioner of public works at a salary to be fixed by council.

§ 173. **When commissioner shall be appointed.** When the population of the city and the duties of the department justify,

* So in original. [Does not conform to section heading.]

in the opinion of the council, the appointment of a commissioner of public works, other than the mayor, who will devote his entire time to the duties of the office, the council may, by resolution passed unanimously, at a regular meeting, or at a special meeting called for that purpose, at which all members are present, authorize the appointment of a separate commissioner of public works. Upon the passage of such resolution the mayor shall appoint a commissioner of public works, who shall have all the powers and duties herein provided or which may be provided by law. The compensation of such commissioner shall be fixed by the council.

§ 174. **Qualifications; term of office; vacancies; compensation.** No person shall be eligible to appointment as such commissioner who is not a citizen of the United States and a resident of the city of Long Beach. The commissioner may be removed by the mayor at any time without cause assigned. Any vacancy in the office shall be filled by the mayor. The compensation of the commissioner shall be fixed by the council. The commissioner shall appoint, subject to the approval of the council, such deputies, clerks and assistants as may be necessary. The city engineer shall, under the supervision of the commissioner, have charge of and do all the civil engineering for the department of public works. The commissioner shall prescribe the duties of such deputies, clerks and other assistants.

§ 175. **Accounts and records.** The commissioner shall cause to be kept proper accounts and a record of the proceedings of the department. All accounts, records and proceedings of the department shall be public.

§ 176. **General powers and duties.** The powers and duties of the commissioner, which shall be exercised and performed as herein provided, and in accordance with the general ordinances of the city, shall be as follows:

(a) He shall have power and it shall be his duty to do all paving and repaving, cleaning and sprinkling of all boulevards, streets, alleys, public squares, parks, or places and bridges and bridge approaches;

(b) Shall establish grades for all streets, alleys and other public places, and when once established by him such grades shall not be changed unless by a four-fifths vote of the council;

(c) Shall have charge of the construction, maintenance and repair of all public sewers, drains, culverts, sidewalks, docks, wharves, moles, seawalls, breakwaters and dykes and the filling in and grading of all land under water, meadow and low land and, on request of the council, any other work of public improvement;

(d) Shall have charge of the maintenance and repairs of all public buildings within the city limits;

(e) Shall provide all materials and supplies for the use of the department;

(f) Shall supervise the making of excavations in or under streets, alleys or other public places for ditches, trenches, tun-

nels, vaults and the like, the laying therein of pipes, wires, cables, conduits and the like, the erection of all poles in such streets, alleys or other public places, and the use thereof generally for purposes similar to those herein named, and shall supervise the back filling of such excavations and the restoration to normal condition of such streets, alleys or other public places;

(g) Shall be charged with the duty of issuing permits for the entry upon or into any street, alley or other public place by any person, firm, corporation or city department for the purpose of doing any of the things referred to in paragraph "f", or for the purpose of the construction, repair or moving of buildings, or for any other purpose whereby the use thereof by the public shall be obstructed, and no person, firm, corporation, or department shall enter upon or occupy such street, alley or other public place for any of such purposes, except at such times and in such manner as the commissioner shall prescribe;

(h) Shall decide as between two or more persons, firms, corporations or departments, or any of them, the order in which work proposed to be done by them at or about the same time in streets, alleys or other public places shall be performed;

(i) Shall prescribe uniform standard rules governing the doing of any kind of work in streets, alleys or other public places by any person, firm, corporation or department, the entry thereon for the purpose and the proper completion of such work, such rules and all amendments thereto to be subject to the approval of the council; provided, that such rules shall not be subject to amendment after the first day of March nor prior to the first day of November in any year;

(j) Shall make proper charges to be prescribed by the rules of the department for the supervision herein referred to and the inspections necessary in connection therewith; provided, that all charges to other departments for all materials and work shall be on the basis of the actual cost thereof;

(k) Shall make all connections with lateral or main sewers, and prepare plans therefor, and assessment rolls for lateral sewers;

(l) Shall have charge of the disposal of all sewage, as authorized by the council;

(m) Shall supervise the collection and disposal of all garbage in the manner provided by the council; and with the approval of the council construct, operate and maintain, within or without the city, an ice plant or a plant for the disposal of garbage and dispose of the by-products therefrom;

(n) Shall keep official records of plans, maps and plats of the city for the department; and make and publish an official map of the city;

(o) May, with the approval of the council, in the name of the city, take and hold, by purchase, gift, devise, bequest or otherwise, such real and personal property as may be needful for carrying out the intents and purposes for which it is established;

(p) Shall recommend to the council the institution of condemnation proceedings whenever, in his judgment, private property should be taken in the name of the city for the purposes of the department;

(q) May, with the approval of the council, sell and convey or lease lands whenever required by the interests of the city;

(r) May establish all reasonable rules and regulations to protect the rights and property vested in the city and under the control of the department;

(s) Make, with the approval of the council, contracts to carry out the objects and purposes of the department as herein provided;

(t) Shall on behalf of the city be empowered to bid on the construction of any pavements or repavements, public sewers or lateral sewers or any part thereof in public streets, alleys or public places, and, if the lowest bidder, shall be awarded the contract; and

(u) Shall have such other powers as are herein prescribed or may be necessary for the proper discharge of his duties.

§ 177. **Public improvements.** Whenever the council shall order any work of public improvement, it shall cause notice to be given forthwith to the commissioner of public works, who shall proceed to do such work or to make contracts therefor, subject to the approval of the council.

§ 178. **Application of funds; annual estimates.** All moneys paid into the city treasury by the department shall apply exclusively on the payment of expenses incurred by it. On or before the fifteenth day of October of each year, the commissioner shall transmit to the city treasurer his estimate in duplicate of the amount of money required for the purposes of the department for the ensuing fiscal year.

§ 179. **Annual report.** The commissioner shall, on or before the first day of January in each year, make a written report to the council relative to the work of the department and the condition of the property in his charge. The report shall be certified by the commissioner, entered of record by the city clerk, and published in such manner as the council may direct. The commissioner shall also make such other reports as the council may, from time to time, require.

§ 180. **Complaints.** The commissioner shall promptly investigate and make report to the council concerning all complaints referred by the council to the commissioner relative to the administration of the department.

§ 181. **Legislation by council.** The council shall enact such ordinances as may be necessary to carry out the provisions of this chapter.

ARTICLE 12.

CITY COURT.

- Section 185. City court, establishment.
186. General jurisdiction and powers of city court and city judge.
187. Jurisdiction in civil actions and proceedings.
188. Jurisdiction where city is a party.
189. Certain actions not cognizable.
190. Enumerated powers of city judge.
191. Acting city judge.
192. Powers and duties of acting city judge.
193. Reciprocal and exclusive powers of city judge and acting city judge.
194. City court clerk.
195. Commencement of action.
196. Requisites of summons.
197. Form of summons.
198. Method of serving summons.
199. Who may serve summons or precept; proof of service.
200. Endorsement upon summons for execution against the person.
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208. Offer of judgment.
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210. Answer, contents.
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212. Joinder and severance of counterclaim.*
213. Amount recoverable on counterclaim.
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216. Objections which may be taken by answer.
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218. Judgment upon the pleadings.
219. Signature to instrument; when deemed genuine.
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222. How cause brought on for trial; notice of trial.
223. Adjournment of trial.
224. Subpoena.

* So in original. [Does not conform to section heading.]

- Section 225. Service of subpoena.
226. Attachment against defaulting witness.
227. Liability of defaulting witness.
228. Practice generally.
229. Costs, generally.
230. Costs in replevin.
231. Costs upon establishment of counterclaim.
232. No costs or fees allowed in action upon judgment of city court in certain cases.
233. Costs upon a motion.
234. Costs upon the taking of depositions.
235. Taxation of costs.
236. Security for costs, generally.
237. Security for costs where plaintiff sues in a representative capacity.
238. Appeals.
239. Trial by jury.
240. Direction of verdict; granting new trials and opening defaults.
241. Trial jurors.
242. Marshals.
243. Process; effect of certain words.

§ 185. **City court, establishment.** The city court, an inferior court having civil and criminal jurisdiction prescribed by this act, is hereby established in the city of Long Beach. Such court shall not be a court of record. The city judge shall be the judge of the court.

§ 186. **General jurisdiction and powers of city court and city judge.** Except as otherwise provided by this act and by statute, the city court shall have jurisdiction of the same actions and proceedings, civil, criminal and of a criminal nature, as a justice of the peace of a town and his court, and the city judge shall have the powers and perform the duties of such justice in such actions and proceedings and otherwise in the administration of justice. Except as otherwise provided herein and by statute, the city shall be regarded as a town for the purpose of applying a statutory provision referring to a town and applicable to matters governed by this article.

§ 187. **Jurisdiction in civil actions and proceedings.** Except as limited by the next succeeding section, the city court shall have jurisdiction in the following civil actions and proceedings:

1. An action to recover damages upon or for breach of contract, express or implied, other than a promise to marry, when the sum claimed does not exceed one thousand dollars;
2. An action to recover damages for or on account of personal injury or an injury to property, where the sum claimed does not exceed one thousand dollars;
3. An action for a fine or penalty not exceeding one-thousand dollars;

4. An action upon a judgment not exceeding one thousand dollars rendered in such court or in any court of the state of local jurisdiction not being a court of record;

5. An action to recover one or more chattels, with or without damages for the taking, withholding or detention thereof, where the value of the chattels as stated in the affidavit of the plaintiff or, if there be no requisition to replevy, the value as stated in the complaint, does not exceed the sum of one thousand dollars;

6. To render judgment upon the confession of the defendant, where the amount confessed does not exceed the sum of one thousand dollars;

7. The city court has jurisdiction in proceedings for the summary removal of persons from real property as prescribed in article eighty-three of the civil practice act, and such proceedings shall be taken in accordance with the provisions of said article so far as they are applicable to courts of justices of the peace;

8. An action upon a surety bond taken in such court or by a justice of the peace;

9. An action to foreclose a lien upon a chattel for a sum of money in any case where the amount of the lien does not exceed one thousand dollars;

10. An action to enforce a mechanic's lien on real property in the manner provided in the lien law for the enforcement of a mechanic's lien in a court not of record, where the amount of the lien as determined by the court does not exceed one thousand dollars;

11. An action for damages for fraud in the sale, purchase or exchange of personal property, if the damages claimed do not exceed one thousand dollars;

12. An action commenced by attachment pursuant to the provisions of the civil practice act, if the debt or damages claimed do not exceed one thousand dollars;

13. An action against an executor or administrator as such, where the amount of the claim does not exceed the sum of one thousand dollars and the claim has been duly presented to the executor or administrator and rejected by him.

§ 188. **Jurisdiction where city is a party.** The city court shall have jurisdiction of an action or proceeding by or against the city subject to the limitations of this act relating to the jurisdiction of such court in actions or proceedings by or against individuals.

§ 189. **Certain actions not cognizable.** The city court shall not take cognizance of a civil action in either of the following cases:

1. Where the title to real property comes in question as prescribed in article eight of the justice court act, and when such question arises the pleadings and practice shall be the same as in courts of justices of the peace of towns;

2. Where the action is to recover damages for false imprison-

ment, libel, slander, criminal conversation, seduction or malicious prosecution;

3. Where, in a matter of account, the sum total of all the accounts of both parties, proved to the satisfaction of the court, exceeds two thousand dollars;

4. Where the action is brought against an executor or an administrator as such, except where the amount of the claim does not exceed the sum of five hundred dollars and the claim has been duly presented to the executor or administrator and rejected by him;

5. Where neither the plaintiff nor the defendant, nor one or more of the plaintiffs or defendants, resides in the city. For the purpose of this limitation, however, a corporation having an office or agency established within the city for the transaction of its business shall be deemed a resident of the city.

§ 190. Enumerated powers of city judge. The city judge

1. May take and certify oaths, affidavits and acknowledgements within the city and shall be entitled to the same fees therefor as a justice of the peace;

2. May make and certify copies of papers, minutes, records and documents in his office, or of the city court, and transcripts from his docket, in the same manner as exemplifications of papers and records by a clerk of a court of record;

3. Shall render to the council from time to time as said council may require an account of all fines and fees and other sums collected in civil or criminal matters, the amount of such account when audited to be paid to the city treasurer;

4. Shall have an official seal of such design as may be prescribed by ordinance to be used by the city judge and city court clerk on any certificate which either is authorized to make;

5. May make, alter and amend rules of practice in relation to matters of which the city court or city judge has cognizance.

§ 191. Acting city judge. The mayor may, and if required by ordinance shall, appoint an acting city judge. The person appointed must be eligible to the office of city judge. The mayor may revoke any such appointment at his pleasure and make new appointments, but a vacancy must not be filled unless an ordinance requiring that there be such an office be then in force. A revocation of an appointment shall be in writing and take effect when filed with the city clerk. If the compensation of the acting city judge be not fixed as provided in this act his accounts for professional services from time to time may be audited at their reasonable value and paid as other contractual claims against the city.

§ 192. Powers and duties of acting city judge. The acting city judge shall have the same powers and duties as herein provided for the city judge.

§ 193. Reciprocal and exclusive powers of city judge and acting city judge. Proceedings under any process returned during the absence or disability of the city judge or a vacancy in his office shall be had in the first instance before the acting city

judge, and may be continued to a determination before him unless the city judge assumes jurisdiction. The fact that either judge has acted in a matter shall not of itself deprive the other of jurisdiction therein, except that after a trial or hearing involving the taking of oral testimony has begun it shall be conducted to a determination by the same judge.

§ 194. **City court clerk.** If authorized by the council there may be a clerk of the city court to be appointed by the mayor. Such clerk shall perform such duties and have such powers as the city judge may prescribe in addition to those hereinafter enumerated. Such clerk may be the stenographer of the court or he may hold any other office in the city designated by the council. He may have power to issue a summons, subpoena and any other process issuable as a matter of course and not requiring an application upon affidavit or petition and to make and entry thereof in the judge's docket. He shall have power to certify copies of papers and documents filed with the city court or city judge, and records and minutes of such court or judge, and transcripts from the judge's docket with the same force and effect as if certified by the city judge. He shall be the custodian of such papers and records of the city court or city judge as the city judge may place in his charge. He may adjourn to a certain day and hour the proceedings upon a process or mandate returned in the absence of the city judge and acting city judge, or in their absence any other matter properly before the court for a hearing.

§ 195. **Commencement of action.** An action must be commenced by the service of summons or by the voluntary joinder of issue by the parties; but for the purpose of saving a cause of action from the operation of the statute of limitations an attempt to commence an action is equivalent to the commencement thereof when the summons is issued by the clerk, provided that actual service thereof is made with due diligence.

§ 196. **Requisites of summons.** The summons must be addressed to the defendant by name, or, if his name is unknown, by a fictitious name, and must summon him to appear before the clerk of the court within five days from the date of service, exclusive of the date of service, and make answer to the complaint. If no written complaint is served with the summons, the plaintiff, or, in case of his inability to do so, the clerk, must endorse upon or attach to the summons a brief statement of the nature and substance of the cause of action, and the summons must state the amount for which the plaintiff will take judgment if the defendant fails to appear and make answer. The address of the plaintiff must be stated on the summons. The summons must be subscribed and issued by the clerk of the court or by the plaintiff's attorney in his own name. When the summons is issued by the plaintiff's attorney, he must add to his signature his office and post-office address.

§ 197. **Form of summons.** The summons must be in substantially the following form, the blanks being properly filled:

CITY COURT OF THE CITY OF LONG BEACH, NASSAU
COUNTY, NEW YORK.

.....

Plaintiff,

vs.

.....

Defendant.

To the above named defendant:

You are hereby summoned to appear in this action in the city court of the city of Long Beach, Nassau county, New York, before the clerk of the said court at his office in the city of Long Beach, within five days after the service of this summons upon you, exclusive of the day of service, and to make answer to the complaint; and if you fail to make answer, judgment will be taken against you for the sum of \$....., with interest thereon from the day of, 19...., together with the costs of this action.

Dated, Long Beach, Nassau county, New York, the day of, 19....

..... or

Attorney for the plaintiff.

Clerk.

(Office and post-office address.)

Plaintiff's address.....

§ 198. **Method of serving summons.** The summons may be served upon the defendant within the city of Long Beach in like manner as though the summons issued out of the supreme court, except as otherwise provided in this act or in the rules, provided that it shall not be served by publication.

§ 199. **Who may serve summons or precept; proof of service.**

1. Personal service of summons or service of a precept in summary proceedings shall be made by a marshal or by any other person over the age of eighteen years and not a party to the action.

2. Proof of service shall be made by the certificate of the marshal or by the affidavit of the person by whom the service was made; and such certificate or affidavit shall be indorsed upon or annexed to the summons or precept.

3. Within two days after service, the summons, or the summons and complaint if the complaint was served with the summons must be filed with proof of service in the office of the clerk in the district where the action is pending.

§ 200. **Endorsement upon summons for execution against the person.** If no verified complaint is served with the summons in an action where execution against the person may issue upon the judgment, the summons and the copy delivered to the defendant must bear an indorsement substantially in the following language: "Plaintiff claims defendant is liable to arrest and imprisonment in this case."

§ 201. **Guardian ad litem.** When a guardian is necessary he must be appointed by the court as follows:

1. If the infant is plaintiff, the appointment must be made before the summons is issued, upon the application of the infant, if he is of the age of fourteen years or upwards; if under that age, upon the application of some relative or friend. The consent in writing of the guardian to be appointed and to be liable for costs if he fails in the action, must be filed with the clerk of the court.

2. After the filing of proof of service of the summons against an infant defendant, no other proceeding shall be taken in the action until a person has been appointed as his guardian for the purpose of the action. Upon the nomination of the defendant, the court must appoint a proper person for that purpose, but if the defendant neglects or refuses to nominate the court may, on application of the plaintiff, appoint any proper person as a guardian upon the filing of such person's written consent with the clerk. The guardian so appointed is not responsible for costs.

3. Where no guardian has been appointed, as in this section provided, the court shall, at any time before judgment, make such appointment. The guardian so appointed is not responsible for costs.

§ 202. **Joinder of parties; interpleader.** 1. Except as otherwise expressly provided in this act, all questions as to the joinder of parties shall be determined by the provisions of law applicable to like cases in the supreme court.

2. No action shall be defeated by the nonjoinder or misjoinder of parties. The names of new parties may be added and the names of parties misjoined may be struck out, by order of the court, at any stage of the cause and upon such terms as justice may require.

3. Upon the application of the defendant in an action brought to recover upon a contract or to recover a chattel, the court may make an order of interpleader or an order joining adverse claimants as parties defendant, according to the provisions of law applicable to like cases in the supreme court.

§ 203. **Prosecuting or defending as a poor person.** Except as otherwise expressly provided in this section or in the rules of the court, a person may obtain leave to prosecute or defend an action as a poor person and to have an attorney assigned to conduct his case, in accordance with the provisions of law applicable to like cases in the supreme court. The petition for such leave may be verified before the clerk of the court, and the certificate of the clerk that he has inquired into the facts of the case and that in his opinion the plaintiff has a prima facie cause of action or that the defendant has a prima facie defense, as the case may be, shall have the same force and effect as the certificate of an attorney.

§ 204. **Grounds of arrest.** A defendant may be arrested in any case of which the court has jurisdiction and in which he might be arrested were the action brought in the supreme court.

§ 205. Pleadings; bills of particulars; special appearance. Pleadings in actions may be oral or written, verified or unverified, except that the pleadings in an action to establish a mechanic's lien must be verified. Pleadings shall consist of complaint and answer and, when ordered, a reply.

1. When an action is commenced by service of a summons only, a statement of the nature and substance of the plaintiff's cause of action shall be endorsed upon or annexed to the summons.

2. Issue must be joined within the time limited by the summons, provided, however, that when the last day falls on Saturday the defendant may answer on the next business day.

3. If a written complaint is served with the summons a written answer must be filed; and if the complaint is verified, the answer must be verified; provided, however, that in an action where the amount claimed is one hundred dollars or less, the defendant, if he appears in person, may answer orally. When a defendant answers orally a statement of the nature and the substance of the answer shall be endorsed upon or annexed to the summons. The address of the defendant, or the office and post-office address of his attorney, shall be endorsed upon the summons.

4. At any time before judgment, the court may direct the filing of a written pleading, verified or unverified.

5. On or before the defendant's last day to answer, his time to move or answer may be extended by filing with the clerk a written stipulation of the parties, or by order of the court upon cause shown.

6. The original or a copy of a contract or other writing on which a cause of action or a defense or a counterclaim is founded may be filed with the pleading and shall be deemed a part of the pleading. Within three days after service of a written demand by either party, the adverse party shall file with the clerk the original or sworn copy of any such contract or other writing specified in such demand. If the paper is not duly filed, the court may order that it be filed and may exclude it from evidence if not filed accordingly.

7. In a proper case a written demand for a bill of particulars of the complaint or counterclaim may be filed with the clerk. The defendant may file his demand at the time of answering. The plaintiff may file his demand three days after the counterclaim is interposed. In either case a bill of particulars must be filed within three days after the demand is filed and the court upon motion or notice may preclude the party failing to file such bill of particulars from giving evidence of the part or parts of his affirmative allegation of which particulars have not been filed. The court may order a written bill of particulars, with or without verification, to be filed and served by the plaintiff or by the defendant interposing a counterclaim.

8. For the purpose of raising a question not involving the merits of the action, a party may appear specially by filing with

the clerk, on or before the last day for answering, a notice of special appearance stating the particular purpose for which he appears. In that event the case shall be set down for hearing, and the party thus appearing need not plead further until directed to do so by the court.

§ 206. **Joinder and severance of causes of action.** The plaintiff may include in the same complaint any cause of action of which the court has jurisdiction to the end that all matters of difference between the respective parties may, so far as practicable, be determined in one action; but if it appears to the court that causes of action so joined should not be tried or disposed of together, the court may order them to be tried separately, or that the action be severed, and may make such other and further orders as may be necessary or expedient for the separate disposal thereof.

§ 207. **Judgment by default.** If the defendant fails to answer within the prescribed time, judgment for the plaintiff may be taken by default, without application to the court, in a case in which the complaint or the statement endorsed upon or annexed to the summons sets forth one or more causes of action upon which a judgment by default may thus be entered in an action in the supreme court.

In such a case, if the verified complaint has been filed and served with the summons, the clerk shall enter judgment forthwith; otherwise the clerk must at the plaintiff's request ascertain the amount due and enter judgment therefor in the manner prescribed for like cases in the supreme court. In all other cases where the defendant makes default in pleading the plaintiff can recover judgment only on application to the court and proof of his cause of action.

§ 208. **Offer of judgment.** At the time of answering the defendant may file with the clerk a written offer to allow judgment to be taken against him for a sum of money or for property therein specified with costs. If there are two or more defendants, and the action can be severed, a like offer may be made by one or more of them against whom a separate judgment may be taken. If the plaintiff thereupon, before taking any other proceeding in the action, files with the clerk a written acceptance of the offer, the clerk must enter judgment accordingly. If an acceptance is not filed, the offer cannot be given in evidence upon the trial; but if the plaintiff fails to obtain a more favorable judgment, he cannot recover costs. Instead of making a written offer a defendant may deposit the amount of his offer with the clerk, if it be a sum of money, with like effect.

§ 209. **Complaint, contents.** The complaint must state in a plain and concise manner the facts constituting the cause of action.

§ 210. **Answer, contents.** The answer must contain:

1. A general or specific denial of each material allegation of the complaint intended to be controverted, or a denial of any knowledge or information thereof sufficient to form a belief.

A denial must not be evasive, and unless the defendant intends in good faith to controvert all the allegations of the complaint or of a particular part thereof, the denial must be directed to the specific allegation intended to be controverted;

2. A plain and concise statement of any new matter constituting a defense or counterclaim;

3. When the judgment may determine the ultimate rights of two or more defendants as between themselves, a defendant must demand such a determination in his answer, which must be in writing. A copy of such answer must be served at least two days before trial, or at such other time as the court shall direct, upon each defendant to be affected by the determination or upon his attorney in the action.

§ 211. **Counterclaim.** Except as otherwise provided in this act, a counterclaim and judgment thereon shall be governed by the provisions of law applicable to like cases in the supreme court.

§ 212. **Joinder and severance of counterclaims.** There may be included in the counterclaim any claims or causes of action mentioned in this act, against the plaintiff, or, in a proper case, against the person whom he represents, and in favor of one or more defendants between whom and the plaintiff a separate judgment may be had in the action; but if it appears to the court that any of the claims or causes of action so joined should not be tried or disposed of together, the court may order that they be tried separately, and may make such other and further orders as may be necessary or expedient for the separate disposal thereof. If it appears to the court that any claim or cause of action alleged by way of counterclaim should not be tried or disposed of in the pending action, the court may strike it out, without prejudice to the bringing of another action or proceeding.

§ 213. **Amount recoverable on counterclaim.** A counterclaim may be interposed and judgment thereon in favor of the defendant may be rendered for any sum not to exceed five hundred dollars exclusive of interest and costs.

§ 214. **Reply to counterclaim.** A reply to a counterclaim is not necessary; but the court may order a written reply, verified or unverified, at any time before judgment. When no reply is filed, the allegations of the counterclaim shall be deemed denied, except as otherwise provided in this act.

§ 215. **Objections to jurisdiction and to pleadings.** An objection that the court has no jurisdiction of the person of the defendant or no jurisdiction of the subject of the action may be taken by filing a notice of special appearance. All other objections which heretofore might have been taken by demurrer may be taken by motion. The notice of motion must specify the grounds thereof and the particular defects or objections upon which the moving party relies.

§ 216. **Objections which may be taken by answer.** An objection to the sufficiency of the complaint, or an objection which,

if sustained, disposes of the action without putting the plaintiff to his proof, may be taken by alleging it as a defense in the answer in lieu of a motion, and on application of either party it must be disposed of before the trial. When an objection is thus taken, the answer must specify the particular objection or defect upon which the defendant relies.

§ 217. Disposal of objections. 1. If the court overrules a defendant's objection taken by motion, the court must allow him to answer, and as a condition thereof may impose costs.

2. If the court sustains an objection taken by a motion or answer upon the ground that the pleading is insufficient, the court must allow it to be amended, and as a condition thereof may impose costs. If the party fails to amend, the defective pleading or part of pleading may be struck out.

§ 218. Judgment upon the pleadings. If either party is entitled to judgment upon the pleadings, the court may, on motion at any time after issue joined, give judgment accordingly.

§ 219. Signature to instrument; when deemed genuine. A signature to a written instrument which is pleaded shall be taken as admitted unless the party sought to be charged thereby files with the clerk, within eight days after joinder of issue, a specific denial of the genuineness of the signature and a demand that it be proved. Such denial and demand by a defendant may be included in his answer.

§ 220. Construction and amendments of pleadings, judgment and process. 1. The allegations of a pleading must be liberally construed for the purpose of doing substantial justice between the parties.

2. At any stage of the cause the court must allow amendment of any summons, process, mandate, pleading, order or judgment, including a petition, precept, answer and final order in a summary proceeding, if substantial justice will be promoted thereby, and as a condition thereof may impose such terms as may be just.

3. Upon the like terms the court may direct that a return made by a marshal or other officer be amended in matter of form, either before or after judgment.

§ 221. Order that issues be tried unnecessary in action against corporation. In an action against a corporation, an order directing that the issues presented by the pleadings be tried shall not be required.

§ 222. How cause brought on for trial; notice of trial. Upon joinder of issue the clerk shall place the case upon a general calendar. Where either party appears in person, the clerk shall fix a date for trial not less than five nor more than eight days after joinder of issue, and shall immediately notify the parties by mail of such date. Unless otherwise provided by the rules, where both parties appear by attorney either party may serve a notice on the other fixing a date for trial not less than five nor more than eight days after the service of such notice, and shall file such notice, with proof of service thereof, with the clerk

who shall thereupon place the case on the calendar for trial. When a jury trial is demanded and no day is fixed for the attendance of a jury within the time limited as above provided, the clerk shall set the case down for trial at the earliest practicable date on which a jury will be in attendance, and shall notify the parties or their attorneys by mail of such date.

§ 223. **Adjournment of trial.** The trial of an action may be adjourned:

1. By the court for good cause shown and upon such terms and conditions as the court may deem just;

2. By stipulation of the parties, to be filed with the clerk, or upon request of the plaintiff where the defendant has made default or upon consent of the parties in open court.

§ 224. **Subpoena.** A subpoena requiring a witness to appear and testify on the trial of an action or a special proceeding shall be issued on the demand of either party by the clerk of the court; but when a party is represented by an attorney, the latter may issue the subpoena and shall subscribe thereto his name and his office and post-office address. The subpoena may be served anywhere in the city of Long Beach and may require the witness to bring with him any book or paper relating to the merits of the action.

§ 225. **Service of subpoena.** A subpoena may be served by any person over the age of eighteen years by delivering a copy thereof to the witness personally and by paying or tendering to him a fee of fifty cents for one day's attendance at court. No mileage need be paid or tendered to the witness.

§ 226. **Attachment against defaulting witness.** 1. Upon satisfactory proof by affidavit or otherwise that a person duly subpoenaed has refused or neglected to obey the subpoena, and upon the oath of the party in whose behalf the person was subpoenaed, or his attorney, that the testimony of such person is material, the court must issue a warrant of attachment directed generally to any marshal, to compel the attendance of such person.

2. Such a warrant of attachment must be executed in the same manner as an order of arrest. The fees of the marshal for serving it must be paid by the person against whom it is issued unless he shows a just cause or a reasonable excuse for his omission to attend, in which case the party procuring the warrant must pay them and add them to his costs, if he recover any.

§ 227. **Liability of defaulting witness.** A person duly subpoenaed who neglects or refuses to obey the subpoena is liable to the party in whose behalf he was subpoenaed for all damages which the party sustains by reason of the neglect or refusal and fifty dollars in addition thereto, and is subject to any fine or punishment which may be imposed in accordance with the provisions of law governing contempts punishable civilly.

§ 228. **Practice generally.** Except as otherwise provided by statute, the provisions of the civil practice act and the justice court act shall apply to and govern the practice and procedure by and before the city judge and city court with the same effect

as if such judge and court were, respectively, a justice of the peace and justice's court.

§ 229. **Costs, generally.** In addition to fees and disbursements the following sums as costs shall be allowed to a party if the pleadings in the case are written and if he has appeared by an attorney and counselor-at-law, and may be allowed in the discretion of the court if the pleadings are oral and he has appeared by an attorney and counselor-at-law:

1. For all proceedings before trial, including judgment for the plaintiff upon default, in case the amount of recovery be fifty dollars or less, to the plaintiff, five dollars; if the recovery be more than fifty dollars, and less than two hundred dollars, ten dollars; and if the recovery be over two hundred dollars, fifteen dollars;

2. On a judgment for plaintiff, otherwise than upon default, an additional sum equal to ten per centum of the recovery, not to exceed in all fifty dollars;

3. If judgment of nonsuit be rendered for defendant without trial, to the defendant five dollars;

4. If judgment be rendered for defendant after trial, to the defendant, ten dollars; and an additional sum when amount involved exceeds four hundred dollars in the discretion of the court, not exceeding in all thirty-five dollars.

§ 230. **Costs in replevin.** The amounts comprising additional costs, as provided in this chapter, shall, in an action for the recovery of chattels or a chattel, be estimated upon the value thereof as assessed by the court or jury.

§ 231. **Costs upon establishment of counterclaim.** A defendant who recovers judgment upon a counterclaim, or obtains a judgment for the possession or recovery of chattels sued for, is entitled, in addition to other costs allowed to him by this chapter in a civil action, to recover a sum equal to ten per centum of the amount recovered by him or of the value of such chattels, not to exceed in all fifty dollars.

§ 232. **No costs or fees allowed in action upon judgment of city court in certain cases.** No costs or fees shall be allowed to the plaintiff in an action brought upon a judgment of the city court if such action be brought within five years after the recovery of the judgment.

§ 233. **Costs upon a motion.** Costs upon a motion in a civil action or proceeding, not exceeding five dollars, may be awarded either absolutely or to abide the event, to the successful party, in the discretion of the court or judge, to be included in a judgment in the manner provided by this chapter in the case of the recovery of fees and disbursements upon a motion.

§ 234. **Costs upon the taking of depositions.** When the testimony of a witness is taken by commission or under an order to take depositions and the testimony is used on the trial, the successful party, if he filed interrogatories or cross-interrogatories or was present at the taking of the testimony, shall be entitled to the sum of five dollars as costs, in addition to sums paid to

the commissioner or officer taking the depositions, not exceeding three dollars for each day actually and necessarily spent in the taking of such depositions.

§ 235. **Taxation of costs.** Costs, including fees and disbursements, shall be taxed by the judge upon application of the party entitled thereto. They may be taxed without notice to the adverse party, but in that event shall be retaxed upon a notice of not less than two days.

§ 236. **Security for costs, generally.** The defendant in an action in the city court may require security for costs when the plaintiff, at the time of the commencement of the action, was a nonresident of the state or a foreign corporation; but the defendant cannot require such security of any plaintiff unless he is entitled to require it of all the plaintiffs. Where security for costs is required to be given under the provision of this or the next section the court shall make an order requiring the plaintiff, within a time therein specified, either to pay into the court a sum not exceeding one hundred dollars to be applied to the payment of costs, if any, awarded against him, or to file with the court an undertaking in a like sum for the payment of such costs, with a surety or sureties to be approved by the city court. Such order shall have the effect of staying all proceedings on the part of the plaintiff, except to review or vacate the order, until the payment of the required sum or the filing of the undertaking, or to move for the adjournment of a trial or hearing in the action to a time beyond the date specified in the order for furnishing such security; but the court may, for cause shown, by written order, extend the time therefor. The form of the undertaking and effect of the plaintiff's failure to comply with the order shall, except as herein otherwise provided, be governed by the provisions of title three of chapter twenty-one of the code of civil procedure.

§ 237. **Security for costs where plaintiff sues in a representative capacity.** In an action brought by an executor or administrator in his representative capacity, or by the trustee of an express trust, or by an assignee for the benefit of creditors, or by a trustee in bankruptcy, or by an infant whose guardian ad litem has not given security for costs, or by the committee of an incompetent person, the court may, in its discretion, upon notice, require plaintiff to give security for costs.

§ 238. **Appeals.** Appeals may be taken from a judgment of the city court to the county court as prescribed in justice court act.

§ 239. **Trial by jury.** When an issue of fact is joined in a civil action either party may demand a trial by jury, and unless so demanded a jury trial is waived; provided, however, that if a judgment of the court be reversed on appeal and a new trial ordered either party may, upon the day designated by the appellate court for the new trial, demand trial by jury. When the sum demanded in the complaint exceeds two hundred dollars, the party demanding trial by jury may require that twelve jurors

be drawn to try the case. In other cases the jury shall consist of six jurors as provided in the justice court act. If twelve jurors be demanded, twenty qualified jurors shall be summoned for the selection therefrom of the number demanded. A jury may be drawn from those summoned either by the city judge or by the city court clerk, if any, under his direction. Though a jury of twelve be demanded and the requisite number therefor summoned, the parties may by mutual consent elect to try the cause by a jury of six at any time before the taking of testimony has begun.

§ 240. Direction of verdict; granting new trials and opening defaults. The court may open defaults, and, in an action tried by a jury, direct a verdict, and may grant a new trial in an action or proceeding for any of the reasons specified in section nine hundred and ninety-nine, of the code of civil procedure, upon such terms as may be just. A motion for a new trial upon the minutes must be made upon at least five days' notice and shall be heard within fifteen days after the entry of judgment.

§ 241. Trial jurors. The city of Long Beach shall be regarded as a town for the purposes specified in article three of the judiciary law. The supervisor, the city clerk and the elective assessor of said city shall perform the duties prescribed in said article. A duplicate list of jurors selected by them shall be filed in the office of the clerk of said city and such office shall be deemed a town clerk's office for that purpose. The supervisor and clerk and elective assessor of said city shall meet at the clerk's office at the time provided by law and proceed to discharge the duties imposed upon them by the judiciary law and by this act, and the list made by them shall constitute the list of persons to serve as trial jurors for the ensuing three years. The supervisor elected under this act and the clerk and the elective assessor of the city shall meet every third year thereafter for the same purpose and make and file a list so required of them. The clerk shall furnish to the city judge certified copies of all such lists and from the names of all such jurors in the city shall be drawn the trial jurors in actions or proceedings in the city court and before the city judge. Until the city judge shall be furnished with such list he shall use in drawing jurors in his court, or before him, the last list furnished to the police justice of the village of Long Beach, but shall set aside any juror so drawn who is not a resident of the city of Long Beach.

§ 242. Marshals. A city marshal shall act as attendant upon the city court during its session, when required by the city judge, and shall exercise the same powers and duties, be entitled to the same fees and compensation and subject to the same liabilities as a constable in a town, all fees or compensation paid on account of services performed by him shall be the property of the city. The marshal shall receive no fees or commissions other than a stated compensation for his services as court attendant. His duties as court attendant shall be prescribed by the rules and regulations of the city judge and a violation of such rules and

regulations shall constitute sufficient cause for his suspension or removal from office.

§ 243. **Process; effect of certain words.** All process shall, in form, be the process of the city court and may be returnable either before the city court or to the city judge. The terms "city court" and "city judge" or their equivalents, may be used interchangeably in any process, pleading, petition, affidavit, paper, caption, record, order, judgment or verdict, without impairing the validity of any act done or step taken in an action or proceeding, if the matter to which the term refers was within the jurisdiction or cognizance of either the city court or city judge.

ARTICLE 13.

MISCELLANEOUS PROVISIONS.

Section 250. General powers and duties of other city officers.

251. Violations.

252. Delivery of books, papers and property to successors.

253. When bills against city shall be paid.

254. Village laws made applicable.

255. Clearing and dredging of waters.

§ 250. **General powers and duties of other city officers.** The powers and duties of all other city officers shall be such as are prescribed in this act, or when not so prescribed, as provided by ordinance of the council or by existing general laws applicable to such officers. The city and all its officers shall have all the powers granted cities and officers of cities of the third class. The powers herein enumerated are in addition to powers granted under general laws not inconsistent herewith and not in substitution for such powers.

§ 251. **Violations.** Any person who shall knowingly violate any of the provisions of this charter, and any person who shall neglect or refuse to perform any duty enjoined upon him hereby shall be guilty of a misdemeanor.

§ 252. **Delivery of books, papers and property to successors.** Whenever any officer shall resign or be removed from office or the term for which he shall have been elected or appointed shall expire, he shall upon demand deliver over to his successor in office all books, papers, moneys and effects in his custody as such officer or in any way pertaining to his office. Every person violating this provision shall be guilty of a misdemeanor and shall be punished accordingly. Every officer appointed or elected under this charter shall be deemed an officer within the meaning hereof.

§ 253. **When bills against city shall be paid.** No bills or account against the city shall be audited or paid unless such bill or account shall be made out in items and properly dated, with an affidavit attached thereto by the person, or one of the persons or an officer of a corporation, presenting or claiming the same, that the items of such bill or account are correct, that the services and disbursements charged therein have been in fact rendered or

paid, and that no part thereof has been paid or satisfied. The council board or department or officer shall cause to be entered upon its files or their books or minutes the amount claimed, the amount allowed, and the fund from which each amount allowed shall be paid. No action shall be brought upon any such bill or account within thirty days from the time the same was presented to the council officer or board authorized to audit the same.

§ 254. **Village laws made applicable.** All special and general laws applicable to the village of Long Beach not inconsistent herewith shall remain applicable to the city of Long Beach as though the same were incorporated specifically in this charter.

§ 255. **Clearing and dredging of waters.** The city may widen, straighten, enlarge, clear from obstruction, dredge, deepen, embank and dike Wreck Lead, otherwise known as Reynolds channel or Long Beach channel, or any part of the bay, ocean or other waters within the city. It may construct basins, slips, docks, or quays within the city, and the expense or any part of the expense of any work or improvement mentioned in this section may be paid out of the general fund or by local assessment as the council shall determine.

ARTICLE 14.

TIME OF TAKING EFFECT.

Section 275. Time of taking effect.

§ 275. **Time of taking effect.** This act shall take effect immediately.

CHAPTER 636

AN ACT to amend chapter eight hundred and ninety of the laws of nineteen hundred and eleven, entitled "An act dividing the state into congressional districts," in relation to changing the boundaries of the eleventh, twelfth, thirteenth and fourteenth congressional districts.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. That portion of section one of chapter eight hundred and ninety of the laws of nineteen hundred and eleven, entitled "An act dividing the state into congressional districts," describing the boundaries of the eleventh congressional district, is hereby amended so that the boundaries of the eleventh congressional district shall be established and fixed as follows:

Eleventh district. Territory included within the following boundaries shall compose the eleventh district: Richmond county, Bedloe's island, Governor's island, Ellis island, and that portion of the county of New York beginning at the East river and

L. 1911,
ch. 890,
§ 1, 11th
district
amended.

¹ The boundaries of the districts affected by this act are materially changed.

Market street, thence along Market street to Henry street, along Henry street to Catherine street, along Catherine street to East Broadway, along East Broadway to Chatham square, along Chatham square to Worth street, along Worth street to Baxter street, along Baxter street to Canal street, along Canal street to Varick street, along Varick street and Seventh avenue to Christopher street, along Christopher street to Bleecker street, along Bleecker street to West Eleventh street, along West Eleventh street to West Fourth street, along West Fourth street to Bank street, along Bank street to Greenwich avenue, along Greenwich avenue to Seventh avenue, along Seventh avenue to West Fourteenth street, along West Fourteenth street to the Hudson river, thence along the Hudson river, around the southerly end of Manhattan island, along the East river to Market street, the point or place of beginning.

§ 1, 12th
district
amended.

§ 2. That portion of section one of such act describing the boundaries of the twelfth congressional district is hereby amended so that the boundaries of the twelfth congressional district shall be established and fixed as follows:

Twelfth district. Territory included within the following boundaries shall compose the twelfth district: That portion of the county of New York beginning at the East river and Market street, thence along Market street to Henry street, along Henry street to Catherine street, along Catherine street to East Broadway, along East Broadway to Chatham square, along Chatham square to Worth street, along Worth street to Baxter street, along Baxter street to Canal street, along Canal street to Essex street, along Essex street to Grand street, along Grand street to Clinton street, along Clinton street to East Houston street, along East Houston street to the East river, thence along the East river to Market street, the point or place of beginning.

§ 1, 13th
district
amended.

§ 3. That portion of section one of such act describing the boundaries of the thirteenth congressional district is hereby amended so that the boundaries of the thirteenth congressional district shall be established and fixed as follows:

Thirteenth district. The territory included within the following boundaries shall compose the thirteenth district: That portion of the county of New York beginning at East Houston and Clinton streets, thence along East Houston to Avenue B, along Avenue B to East Fourth street, along East Fourth street to Broadway, along Broadway to West Third street, along West Third street to Sixth avenue, along Sixth avenue to West Washington place, along West Washington place to Seventh avenue, along Seventh avenue and Varick street to Canal street, along Canal street to Essex street, along Essex street to Grand street, along Grand street to Clinton street, along Clinton street to East Houston street, the point or place of beginning.

§ 1, 14th
district
amended.

§ 4. That portion of section one of such act describing the boundaries of the fourteenth congressional district is hereby amended so that the boundaries of the fourteenth congressional district shall be established and fixed as follows:

Fourteenth district. The territory included within the following boundaries shall compose the fourteenth district. That portion of the county of New York beginning at the East river and East Fourteenth street, and running thence along East and West Fourteenth street, to Seventh avenue, along Seventh avenue to Greenwich avenue, along Greenwich avenue to Bank street, along Bank street to West Fourth street, along West Fourth street to West Eleventh street, along West Eleventh street to Bleecker street, along Bleecker street to Christopher street, along Christopher street to Seventh avenue, along Seventh avenue to West Washington place, along West Washington place to Sixth avenue, along Sixth avenue to West Third street, along West Third street to Broadway, along Broadway to East Fourth, along East Fourth to Avenue B, along Avenue B to East Houston street, along East Houston street to East river, along the East river to East Fourteenth street, the point or place of beginning.

§ 5. This act shall take effect immediately.

CHAPTER 637

AN ACT to amend chapter four hundred and twelve of the laws of nineteen hundred and seven, entitled "An act providing for the court of general sessions of the city and county of New York, its justices and officers," in relation to the classification of certain judges' clerks.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter four hundred and twelve of the laws of nineteen hundred and seven, entitled "An act providing for the court of general sessions of the city and county of New York, its justices and officers," is hereby amended by inserting therein a new section, to be section eight-a, to read as follows:

§ 8a added
to L. 1907,
ch. 412.

§ 8-a. A clerk to a judge of the court of general sessions who has held such position for not less than ten years shall, upon the death, resignation or retirement of such judge, be classified as a deputy clerk of the court of general sessions under the provisions of the civil service law and shall retain such classification after the death, resignation or retirement of such judge; but a judge who shall succeed such a retiring judge shall have the same right to appoint a clerk outside of the civil service list as has existed heretofore.

§ 2. This act shall take effect immediately.

CHAPTER 638

AN ACT to amend the Greater New York charter, in relation to awarding contracts.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1901,
ch. 466,
§ 1541, as
amended by
L. 1910,
ch. 543,
amended.

Section 1. Section fifteen hundred and forty-one of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as amended by chapter five hundred and forty-three of the laws of nineteen hundred and ten, is hereby amended to read as follows:

MAJORITY OF BOARDS OF DEPARTMENTS; QUORUM; POWERS.

§ 1541. A majority of the members of a board in any department of the city government, and also of the board for the revision of assessments, shall constitute a quorum to fully perform and discharge any act or duty authorized, possessed by, or imposed upon any department or any board aforesaid, and with the same legal effect as if every member of any such board aforesaid had been present, except as herein otherwise specially provided. Each board may, except as herein otherwise provided, choose, in its own pleasure, one of its members, who shall be its president, and one who shall be its treasurer, and may appoint a chief clerk or secretary. No expense shall be incurred by any of the departments, boards or officers thereof, unless an appropriation shall have been previously made covering such expense, nor any expense in excess of the sum appropriated in accordance with law. This restriction shall not apply to contracts for the purchase of coal which contracts shall not extend for a longer period than one year. ¹ The foregoing provisions shall not be construed to prohibit the award of a contract in cases where the appropriation was insufficient at the time bids are opened, provided that an additional appropriation sufficient to make up the amount required, to equal the amount bid on the contract, is secured before an award is made.

§ 2. This act shall take effect immediately.

¹ Remainder of section new.

CHAPTER 639

AN ACT to amend the general municipal law, in relation to payments to injured or representatives of deceased volunteer firemen.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision c of subdivision first of section two hundred and five of chapter twenty-nine of the laws of nineteen hundred and nine, entitled "An act relating to municipal corporations, constituting chapter twenty-four of the consolidated laws," as last amended by chapter one hundred and ninety of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

c. If in any other place the sum of three thousand dollars² shall be paid to the executor or administrator of such deceased volunteer fireman,

§ 2. Subdivision fourth of section two hundred and five of such chapter, as last amended by chapter one hundred and ninety of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

Fourth. In cities such sum shall be a city charge and shall be audited and paid in the same manner as other city charges, except that no part of the moneys payable under this section shall be paid from the pension funds of the said departments therein. In villages such sum shall be a village charge and shall be audited and paid in the same manner as village charges, and shall be assessed upon the property and persons liable to taxation in said village, and levied and collected in the same manner as village taxes. If such fireman was a member of a fire company in a fire district outside of a city or an incorporated village, such sum shall be a town charge, audited and paid in the same manner as town charges, and shall be assessed upon the property and persons in such fire districts liable to taxation, and levied and collected in the same manner as town charges. If such fireman was a member of a fire company incorporated under the membership corporations law, located outside of a city, village or fire district, such sum shall be a town charge audited and paid as town charges and shall be assessed upon the property and persons liable to taxation in the territory protected by such fire company and levied and collected in the same manner as town charges therein. ³ If such fireman was a member of a fire company or fire department operating in, or maintained jointly by two or more villages, or two or more towns, or two or more fire districts, such sum shall be a charge against the village, town or fire district, in

¹ Previously amended by L. 1914, ch. 400; L. 1920, ch. 617.

² Formerly "fifteen hundred dollars."

³ Remainder of paragraph new.

L. 1909,
ch. 29,
§ 206,
subd. 1st,
subd. c, as
amended by
L. 1921,
ch. 190,
amended.

§ 206,
subd. 4th,
as amended
by L. 1921,
ch. 190,
amended.

Sums, how
audited,
paid and
raised.

which the fire occurred. If such injury occur while a fire company is assisting a neighboring city, town or village in the subjugation of fire, or while going thereto or returning therefrom, upon the call of such city, town or village, or death shall result from any such injury, such sum shall be a charge against such neighboring city, town or village so issuing the call for assistance and in which the fire occurred.

Money paid
to legal
representa-
tives.

Exemp-
tions.

Provided, however, that any money paid to an executor or administrator under any of the provisions of this section shall be distributed in the manner provided by law for the distribution of personal property, and all money paid under this section shall be exempt from any process for the collection of debts either against the volunteer firemen or any beneficiary to whom the same is paid under the provisions of this section.

§ 3. This act shall take effect immediately.

CHAPTER 640

AN ACT to repeal article eight of the partnership law, and inserting a new article eight, in relation to limited partnerships.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1919,
ch. 408,
art. 8
repealed;
new art. 8
added.

Section 1. Article eight of chapter four hundred and eight of the laws of nineteen hundred and nineteen, entitled "An act in relation to partnerships, constituting chapter thirty-nine of the consolidated laws," is hereby repealed, and a new article eight inserted, to read as follows:

ARTICLE 8.

LIMITED PARTNERSHIPS.

- Section 90. Limited partnerships defined.
91. Formation.
92. Business which may be carried on.
93. Character of limited partner's contribution.
94. Name not to contain surname of limited partner; exceptions.
95. Liability for false statements in certificate.
96. Limited partner not liable to creditors.
97. Admission of additional limited partners.
98. Rights, powers and liabilities of a general partner.
99. Rights of a limited partner.
100. Status of person erroneously believing himself a limited partner.
101. One person both general and limited partner.

¹ This act is substantially that prepared and recommended for adoption by the commissioners on uniform state laws.

Section 102. Loans and other business transactions with limited partner.

103. Relation of limited partners inter se.
104. Compensation of limited partner.
105. Withdrawal or reduction of limited partner's contribution.
106. Liability of limited partner to partnership.
107. Nature of interest in partnership.
108. Assignment of interest.
109. Effect of retirement, death or insanity of a general partner.
110. Death of limited partner.
111. Rights of creditors of limited partner.
112. Distribution of assets.
113. Certificate cancelled or amended.
114. Requirements for amendment or cancellation.
115. Parties to actions.
116. Short title.
117. Rules of construction.
118. Rules for cases not covered.
119. Existing limited partnerships.

§ 90. **Limited partnership defined.** A limited partnership is a partnership formed by two or more persons under the provisions of section ninety-one, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership.

§ 91. **Formation.** (1) Two or more persons desiring to form a limited partnership shall

- (a) Sign and swear to a certificate, which shall state
 - I. The name of the partnership.
 - II. The character of the business.
 - III. The location of the principal place of business.
 - IV. The name and place of residence of each member; general and limited partners being respectively designated.
 - V. The term for which the partnership is to exist.
 - VI. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner.
 - VII. The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made.
 - VIII. The time, if agreed upon, when the contribution of each limited partner is to be returned.
 - IX. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution.
 - X. The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution.
 - XI. The right, if given, of the partners to admit additional limited partners.
 - XII. The right, if given, of one or more of the limited partners

to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority.

XIII. The right, if given, of the remaining general partner or partners to continue the business on the death, retirement or insanity of a general partner, and

XIV. The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.

(b) File and record the certificate in the office of the county clerk of the county in which the principal office of such partnership is located.

(2) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of subdivision one of this section.

§ 92. **Business which may be carried on.** A limited partnership may carry on any business which a partnership without limited partners may carry on.

§ 93. **Character of limited partner's contribution.** The contributions of a limited partner may be cash or other property, but not services.

§ 94. **Name not to contain surname of limited partner; exceptions.** (1) The surname of a limited partner shall not appear in the partnership name, unless

(a) It is also the surname of a general partner, or

(b) Prior to the time when the limited partner became such the business had been carried on under a name in which his surname appeared.

(2) A limited partner whose name appears in a partnership name contrary to the provisions of subdivision one of this section is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.

§ 95. **Liability for false statements in certificate.** If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false

(a) At the time he signed the certificate, or

(b) Subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in section one hundred and fourteen of this article.

§ 96. **Limited partner not liable to creditors.** A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business.

§ 97. **Admission of additional limited partners.** After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of section one hundred and fourteen.

§ 98. **Rights, powers and liabilities of a general partner.** (1) A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a

partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to

- (a) Do any act in contravention of the certificate.
- (b) Do any act which would make it impossible to carry on the ordinary business of the partnership.
- (c) Confess a judgment against the partnership.
- (d) Possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose.
- (e) Admit a person as a general partner.
- (f) Admit a person as a limited partner, unless the right so to do is given in the certificate.
- (g) Continue the business with partnership property on the death, retirement or insanity of a general partner, unless the right so to do is given in the certificate.

§ 99. **Rights of a limited partner.** (1) A limited partner shall have the same rights as a general partner to

(a) Have the partnership books kept at the principal place of business of the partnership, and at all times to inspect and copy any of them.

(b) Have on demand true and full information of all things affecting the partnership, and a formal account of partnership affairs whenever circumstances render it just and reasonable, and

(c) Have dissolution and winding up by decree of court.

(2) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in sections one hundred and four and one hundred and five of this article.

§ 100. **Status of person erroneously believing himself a limited partner.** A person who has contributed to the capital of a business conducted by a person or partnership erroneously believing that he has become a limited partner in a limited partnership is not, by reason of his exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, or bound by the obligations of such person or partnership; provided that on ascertaining the mistake he promptly renounces his interest in the profits of the business, or other compensation by way of income.

§ 101. **One person both general and limited partner.** (1) A person may be a general partner and a limited partner in the same partnership at the same time.

(2) A person who is a general, and also at the same time a limited partner, shall have all the rights and powers and be subject to all the restrictions of a general partner; except that, in respect to his contributions, he shall have the rights against the other members which he would have had if he were not also a general partner.

§ 102. **Loans and other business transactions with limited partner.** (1) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also

a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim

(a) Receive or hold as collateral security any partnership property, or,

(b) Receive from a general partner or the partnership any payment, conveyance or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners.

(2) The receiving of collateral security, or a payment, conveyance or release in violation of the provisions of subdivision one is a fraud on the creditors of the partnership.

§ 103. **Relation of limited partners inter se.** Where there are several limited partners the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other matter. If such an agreement is made it shall be stated in the certificate, and in the absence of such a statement all the limited partners shall stand upon equal footing.

§ 104. **Compensation of limited partner.** A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate; provided, that after such payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners.

§ 105. **Withdrawal or reduction of limited partner's contribution.** (1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until

(a) All liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them.

(b) The consent of all members is had, unless the return of the contribution may be rightfully demanded under the provisions of subdivision two, and

(c) The certificate is cancelled or so amended as to set forth the withdrawal or reduction.

(2) Subject to the provisions of subdivision one, a limited partner may rightfully demand the return of his contribution

(a) On the dissolution of a partnership, or,

(b) When the date specified in the certificate for its return has arrived, or,

(c) After he has given six months' notice in writing to all other members, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.

(3) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irre-

spective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when

(a) He rightfully but unsuccessfully demands the return of his contribution, or,

(b) The other liabilities of the partnership have not been paid, or the partnership property is insufficient for their payment and the limited partner would otherwise be entitled to the return of his contribution.

§ 106. Liability of limited partner to partnership. (1) A limited partner is liable to the partnership

(a) For the difference between his contribution as actually made and that stated in the certificate as having been made, and

(b) For any unpaid contributions which he agreed in the certificate to make in the future at the time and on the conditions stated in the certificate.

(2) A limited partner holds as trustee for the partnership

(a) Specific property stated in the certificate as contributed by him, but which was not contributed or which has been wrongfully returned, and

(b) Money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all members; but a waiver or compromise shall not affect the right of a creditor of a partnership, who extended credit or whose claim arose after the filing and before a cancellation or amendment of the certificate, to enforce such liabilities.

(4) When a contributor has rightfully received the return in whole or in part of the capital of his contribution, he is nevertheless liable to the partnership for any sum, not in excess of such return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims arose before such return.

§ 107. Nature of interest in partnership. A limited partner's interest in the partnership is personal property.

§ 108. Assignment of interest. (1) A limited partner's interest is assignable.

(2) A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned his interest in a partnership.

(3) An assignee, who does not become a substituted limited partner, has no right to require any information or account of the partnership transactions or to inspect the partnership books; he is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled.

(4) An assignee shall have the right to become a substituted limited partner if all the members, except the assignor, consent thereto or if the assignor, being thereunto empowered by the certificate, gives the assignee that right.

(5) An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with section one hundred and fourteen of this article.

(6) The substituted limited partner has all the rights and powers, and is subject to all the restrictions and liabilities of his assignor, except those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate.

(7) The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under sections ninety-five and one hundred and six.

§ 109. Effect of retirement, death or insanity of a general partner. The retirement, death or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners

(a) Under a right so to do stated in the certificate, or,

(b) With the consent of all members.

§ 110. Death of limited partner. (1) On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner.

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner.

§ 111. Rights of creditors of limited partner. (1) On due application to a court of competent jurisdiction by any judgment creditor of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of the judgment debt; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require.

(2) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property.

(3) The remedies conferred by subdivision one of this section shall not be deemed exclusive of others which may exist.

(4) Nothing in this act shall be held to deprive a limited partner of his statutory exemption.

§ 112. Distribution of assets. (1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:

(a) Those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners.

(b) Those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions.

(c) Those to limited partners in respect to the capital of their contributions.

(d) Those to general partners other than for capital and profits.

(e) Those to general partners in respect to profits.

(f) Those to general partners in respect to capital.

(2) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital, and in respect to their claims for profits or for compensation by way of income on their contributions respectively, in proportion to the respective amounts of such claims.

§ 113. **Certificate cancelled or amended.** (1) The certificate shall be cancelled when the partnership is dissolved or all limited partners cease to be such.

(2) A certificate shall be amended when

(a) There is a change in the name of the partnership or in the amount or character of the contribution of any limited partner.

(b) A person is substituted as a limited partner,

(c) An additional limited partner is admitted,

(d) A person is admitted as a general partner,

(e) A general partner retires, dies or becomes insane, and the business is continued under section one hundred and nine,

(f) There is a change in the character of the business of the partnership,

(g) There is a false or erroneous statement in the certificate,

(h) There is a change in the time as stated in the certificate for the dissolution of the partnership or for the return of a contribution.

(i) A time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate, or,

(j) The members desire to make a change in any other statement in the certificate in order that it shall accurately represent the agreement between them.

§ 114. **Requirements for amendment or cancellation.** (1) The writing to amend a certificate shall

(a) Conform to the requirements of subdivision one-a of section ninety-one of this article, as far as necessary to set forth clearly the change in the certificate which it is desired to make, and

(b) Be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in subdivisions one and two of this section as a person who must execute the writing refuses to do so, may petition the supreme court to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the county clerk of the county where the certificate is recorded to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall

also cause to be filed for record in said office a certified copy of its decree setting forth the amendment.

(5) A certificate is amended or cancelled when there is filed for record in the office of the county clerk where the certificate is recorded

(a) A writing in accordance with the provisions of subdivisions one and two of this section, or,

(b) A certified copy of the order of court in accordance with the provisions of subdivision four thereof.

(6) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this article.

§ 115. **Parties to actions.** A contributor, unless he is a general partner, is not a proper party to proceedings by or against a partnership, except where the object is to enforce a limited partner's right against or liability to the partnership.

§ 116. **Short title.** This article shall be known and may be cited as the uniform limited partnership act.

§ 117. **Rules of construction.** (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this article.

(2) This article shall be so interpreted and construed as to effect its general purpose.

(3) This article shall not be so construed as to impair the obligations of any contract existing when this article takes effect, nor to affect any action or proceeding begun or right accrued before this article takes effect.

§ 118. **Rules for cases not covered.** In any case not provided for in this article the rules of law and equity, including the law merchant, shall govern.

§ 119. **Existing limited partnerships.** (1) A limited partnership formed under any statute of this state prior to the adoption of this article may become a limited partnership under this article by complying with the provisions of section ninety-one, provided the certificate sets forth

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made, and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

(2) The provisions of this article, or the repeal of article eight of this chapter, shall not affect or impair any act done or right accrued, acquired or established by a limited partnership formed under any statute of this state prior to its adoption, until or unless it becomes a limited partnership in accordance with the provisions of this article, and the same may be conducted in the same manner and to the same extent as if this article had not been passed.

§ 2. Sections one hundred and ten and one hundred and eleven of such chapter are hereby renumbered sections one hundred and twenty-five and one hundred and twenty-six, respectively.

§ 3. This act shall take effect immediately.

CHAPTER 641

AN ACT to amend the penal law, in relation to offenses against the elective franchise.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and fifty-four of the penal law is hereby amended to read as follows:

L. 1909,
ch. 88,
§ 754,
amended.

§ 754. **False affidavits; mutilation, destruction or loss of registry list or affidavits.**¹ 1. Any person who wilfully loses, alters, destroys or mutilates the list or register of voters in any election district, or a certified copy thereof, or removes from the place of registration the public copy of such registration, after the making of the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor.

2.² An applicant for registration who shall incorporate or cause to be incorporated any false statement in any challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who knowingly takes a false oath before a board of inspectors of election, shall be deemed guilty of perjury.

3. A person who shall wilfully suppress, mutilate or alter, or, except as authorized by the election law, shall destroy, any signed challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who, except as authorized by the election law, shall remove such an affidavit from the place of registration or polling place, is guilty of a felony.

§ 2. Section seven hundred and fifty-seven of the penal law is hereby amended to read as follows:

§ 757
amended.

§ 757. **Failure to furnish information; false information.**⁴ 1. Any person dwelling in a building in a city who wilfully refuses to truly answer any question or who shall give false answers to any questions asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or registry of voters made by a board of registry as residing at such building, or who knowingly harbors or conceals any person who has falsely registered as a voter, or who shall rent any room or bed to any person to be used by such person for himself or any other person for the purpose of unlawfully registering or voting therefrom is guilty of a misdemeanor.

¹ Words "False affidavits" new.

² Words "or affidavits" new.

³ Remainder of section new.

⁴ Section heading formerly read: "Failure of house-dweller to answer inquiries."

2.^a A keeper of a hotel, lodging-house, boarding-house or rooming-house in a city who neglects to make the sworn report required by the election law to be made twenty-nine days before the election, or a keeper of a hotel, lodging-house, boarding-house or rooming-house or the owner or lessee of a dwelling or apartment, in a city or town, who neglects to make to a board or officer authorized to require the same a sworn list of the persons residing in such hotel, lodging-house, boarding-house, rooming-house, dwelling or apartment, together with the other particulars or information in relation to such persons required to be given by or pursuant to the election law, shall be guilty of a misdemeanor.

3. A keeper of a hotel, lodging-house, boarding-house or rooming-house or the owner or lessee of a dwelling or apartment who makes a report or furnishes a list required by the election law which states that a person has resided on the premises to which the report or list relates for a longer period than he has actually resided therein, or puts upon such a list or in such a report a name under which no person has resided any length of time in said premises, is guilty of a felony.

4. Any officer or person who refuses to furnish to the secretary of state such information as he may possess concerning voters absent from their election districts in time of war, in the actual military service of this state or of the United States in the army or navy thereof, or who wilfully furnishes false information concerning such absent voters, is guilty of a felony and shall be punishable by imprisonment for not less than one year nor more than three years.

§ 760a
amended.

§ 3. Section seven hundred and sixty-a⁵ of the penal law is hereby amended to read as follows:

§ 760-a. **Misconduct in relation to**⁶ petitions. Any person who:

1. Pays, lends, contributes or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election; or

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to sign a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election; or

3. Receives, agrees or contracts for any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for signing a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election; or

4. Pays or agrees to pay money or other valuable consideration,

⁵ Remainder of section new.

⁶ As added by L. 1912, ch. 207.

^{*} Word "designation" omitted.

to any person for his services in canvassing for or otherwise procuring the signatures of voters to a petition for the designation of a candidate or candidates for party nomination or for election to a party position to be voted for at a primary election, upon the basis of the number of names to such petition procured by such person, or at a fixed amount per name; or

5. Represents to any person as an inducement for signing a petition for the designation of a candidate for party nomination or for election to a party position to be voted for at a primary election, that the person soliciting such signature is to be compensated upon the basis of the number of names procured by such person, or at a fixed amount per name; ⁷ or

6. Being a signer of a petition, provided for in the election law, for the designation or nomination of a candidate, thereby makes a false statement or makes a false affidavit thereon or a false statement to the witness who authenticates the petition,

Is guilty of a misdemeanor.

§ 4. Section seven hundred and sixty-three of the penal law is hereby amended to read as follows: § 763
amended.

§ 763. Violation of election law by public officer or employee.⁸ A public officer who omits, refuses or neglects to perform any act required of him by the election law, or a public officer or public employee who⁹ refuses to permit the doing of any act authorized by such law or wilfully hinders or delays or attempts to hinder or delay the performance of such an act¹⁰ is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

§ 5. Section seven hundred and sixty-four of the penal law is hereby amended to read as follows: § 764
amended.

§ 764. Misdemeanor in relation to elections. Any person who:

1. Acts as an inspector of election or as a clerk at an election,¹¹ without being able to read and write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and wilfully permits or suffers any person to vote who is not entitled to vote thereat; or,

3. Wilfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote; or,

4. Electioneers on election day within a polling place, or in any public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner

⁷ Remainder of section new.

⁸ Words "or employee" new.

⁹ Words "a public officer or public employee who" new.

¹⁰ Words "by such law or wilfully hinders or delays or attempts to hinder or delay the performance of such an act," substituted for word "thereby."

¹¹ Sentence to here formerly read: "1. Acts as an inspector of election, poll clerk or ballot clerk."

within one hundred feet of a polling place; or displays any political poster or placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election; or,

5. Removes any official ballot from a polling place before the closing of the polls; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or makes or keeps any memorandum of anything occurring within the booth,¹² or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with, a ballot or paster ballot, with the intent that it may afterwards be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ¹³ clerks or inspectors ¹⁴ having charge of the ballots; or,

14. Not being an inspector of election or ¹⁵ clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the inspectors of election,¹⁶ before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Wilfully defaces, injures, mutilates, destroys or secretes any

¹² Words "or makes or keeps any memorandum of anything occurring within the booth," new.

¹³ Word "ballot" omitted.

¹⁴ Words "or inspectors" new.

¹⁵ Words "a ballot" omitted. Words "an inspector of election or" new.

¹⁶ Words "inspectors of election" substituted for words "ballot clerks."

voting machine which belongs to any municipality for use at elections, and any person who commits or attempts to commit a fraud in the use of any such voting machine during an election; or,

18.¹⁷ Not being lawfully authorized, makes or has in his possession a key to a voting machine which has been adopted and will be used in elections; or,

19.¹⁷ Not being an inspector or clerk of election, handles a voted or unvoted ballot or stub thereof, during the canvass of votes at an election; or,

20.¹⁷ Intentionally opens an absentee voter's envelope or examines the contents thereof after the receipt of the envelope by the board of elections and before the close of the polls at the election; or,

21.¹⁸ Wilfully disobeys any lawful command of the board of inspectors, or any member thereof,

Is guilty of a misdemeanor.

This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law.

§ 6. Section seven hundred and sixty-five of the penal law is hereby amended to read as follows: § 765
amended.

§ 765. **Illegal voting.** Any person who:

1. Knowingly votes or offers or attempts to vote at any election, or town meeting, when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election, or town meeting, knowing that such person is not qualified; or,

3. Votes or offers or attempts to vote at an election, or town meeting more than once; or votes or offers or attempts to vote at an election, or town meeting under any other name than his own; or votes or offers or attempts to vote at an election, or town meeting in an election district or from a place where he does not reside; or,

4. Procures, aids, assists, commands or advises another to vote or offer or attempt to vote at an election, or town meeting, knowing that such person is not qualified to vote thereat; or,

5. Being an inhabitant of another state or county, votes or offers or attempts to vote at an election, or town meeting in this state or permits, aids, assists, abets, procures, commands or advises another to commit or attempt any act named in this section; or,¹⁹

6.²⁰ Prompts a person, applying to vote, in answering questions put to him by the inspectors concerning his identity or qualifications for voting; or,

¹⁷ Subds. 18-20 new.

¹⁸ Formerly subd. 18.

¹⁹ Word "or" new.

²⁰ Subds. 6-10 new.

7.²⁰ Being an applicant for an absentee voter's ballot, makes a material false statement in his application; or,

8.²⁰ Not being a qualified absentee voter, and having knowledge or being chargeable with knowledge of that fact, votes or attempts to vote as an absentee voter; or,

9.²⁰ Fraudulently signs the name of another upon an absentee voter's envelope or aids in doing or attempting to do a fraudulent act in connection with an absentee vote cast or attempted to be cast; or,

10.²⁰ Falsely pretends or represents to the inspectors of election or any of them that he is incapacitated to mark his ballot, for the purpose of obtaining assistance in voting under the provisions of the election law,

Is guilty of felony, punishable by imprisonment in a state prison for not more than five years.

An offer or attempt under this section shall be deemed to be the doing of any act made necessary by the election law preliminary to the delivery of a ballot to an elector or the deposit of the ballot in the ballot box, or his admission to the booth or voting machine inclosure.²¹

§ 765a
added.

§ 7. The penal law is hereby amended by inserting therein, after section seven hundred and sixty-five, a new section, to be section seven hundred and sixty-five-a, to read as follows:

§ 765-a. **Unlawful use of pasters.** An election officer or other person who uses a paster upon an official ballot, at any election, except as authorized and in the manner provided by the election law is guilty of a felony.

§ 766
amended.

§ 8. Section seven hundred and sixty-six of the penal law is hereby amended to read as follows:

§ 766. **False returns; unlawful acts respecting returns.**²² 1. An inspector or ²³ clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony.

2.²⁴ Any election officer who shall sign any statement of the canvass of the votes cast at an election or town meeting at any other place than the polling place, or at any time other than immediately after the canvass is completed, except by direction of a court or judge of competent jurisdiction, and any election officer or person who shall take from the polling place any such statement before it shall have been signed as provided by the election law, is guilty of a felony.

§ 776
repealed;
new § 776
added.

§ 9. Section seven hundred and seventy-six of the penal law

²⁰ Subds. 6-10 new.

²¹ Words "or his admission to the booth or voting machine inclosure," new.

²² Words "unlawful acts respecting returns" new.

²³ Word "poll" omitted.

²⁴ Subd. 2 new.

is hereby repealed, and such law is hereby amended by inserting therein a new section seven hundred and seventy-six, to read as follows:

§ 776. **Failure to file statement of receipts, expenditures and contributions.** Any candidate for election to public office, or any candidate for nomination to public office at a primary election, or any treasurer of a political committee as defined by the election law, who neglects to file, as required by the election law, a statement of receipts, expenditures and contributions shall be guilty of a misdemeanor.

§ 10. Section seven hundred and eighty-one of the penal law is hereby amended to read as follows: § 781
amended.

§ 781. **Limitation of amounts to be expended by or for²⁵ candidates.** 1. The total amount expended by a candidate for a public office, voted for at an election, by the qualified electors of the state or any political subdivision thereof, for any of the purposes specified in section seven hundred and sixty-seven of this chapter, for contributions to political committees, as that term is defined in section five hundred and forty of the election law, or for any purpose tending in any way, directly or indirectly, to promote, or aid in securing, his nomination and election shall not exceed the amount specified herein. By a candidate for governor, the sum of ten thousand dollars; by a candidate for any other elective state office, other than a judicial office, the sum of six thousand dollars; by a candidate for the office of representative in congress or presidential elector, the sum of four thousand dollars; by a candidate for the office of state senator, the sum of two thousand dollars; by a candidate for the office of member of assembly, the sum of one thousand dollars; by a candidate for any other public office to be voted for by the qualified electors of a county, city, town or village, or any part thereof, if the total number of votes cast therein for all candidates for the office of governor at the last preceding state election, shall be five thousand or less, the sum of five hundred dollars; if the total number of votes cast therein at such last preceding state election be in excess of five thousand, the sum of three dollars for each one hundred votes in excess of such number may be added to the amounts above specified. Any candidate for a public office who shall expend for the purposes above mentioned an amount in excess of the sum herein specified shall be guilty of a misdemeanor.

2.²⁶ The amount expended in the election of an individual candidate by all committees taking part solely in his election and by all persons other than the candidate shall not exceed in all the amount authorized by the preceding subdivision to be expended by such candidate. Any person who knowingly shall aid or participate in the expenditure for the purposes mentioned in this subdivision of an amount in excess of the amount specified in this subdivision shall be guilty of a misdemeanor.

§ 11. This act shall take effect immediately.

²⁵ Words "or for" new.

²⁶ Subd. 2 new.

CHAPTER 642

AN ACT to amend the personal property law, in relation to conditional sale of goods and chattels and to make uniform the law relating thereto.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 45,
art. 4
repealed.
New art. 4
added.

Section 1. Article four of chapter forty-five of the laws of nineteen hundred and nine, entitled "An act relating to personal property, constituting chapter forty-one of the consolidated laws," is hereby repealed.

§ 2. Such chapter is hereby amended by inserting therein a new article, to be article four thereof, to read as follows:

ARTICLE 4.

UNIFORM CONDITIONAL SALES LAW.

- Section 60. Article may be known by short title.
- 61. Definitions.
 - 62. Primary rights of buyer.
 - 63. Primary rights of seller.
 - 64. Conditional sales valid except as otherwise provided.
 - 65. Conditional sales void as to certain persons.
 - 66. Place of filing.
 - 67. Fixtures.
 - 68. Railroad equipment or rolling stock.
 - 69. Conditional sale of goods for resale.
 - 70. Filing.
 - 71. Refiling.
 - 72. Cancellation of contract.
 - 73. Prohibition of removal or sale without notice.
 - 74. Refiling on removal.
 - 75. Fraudulent injury, concealment, removal or sale.
 - 76. Retaking possession.
 - 77. Notice of intention to retake.
 - 78. Redemption.
 - 79. Compulsory resale by seller.
 - 80. Resale at option of parties.
 - 80-a. Proceeds of resale.
 - 80-b. Deficiency on resale.
 - 80-c. Rights of parties where there is no resale.
 - 80-d. Election of remedies.
 - 80-e. Recovery of part payments.
 - 80-f. Waiver of statutory protection.
 - 80-g. Loss and increase.
 - 80-h. Rules for cases not provided for.
 - 80-i. Uniformity of interpretation.
 - 80-j. Construction of article.

¹This act is substantially that prepared and recommended for adoption by the commissioners on uniform state laws.

§ 60. **Article may be known by short title.** This article may be cited as the "uniform conditional sales act."

§ 61. **Definitions.** In this act "conditional sale" means (1) any contract for the sale of goods under which possession is delivered to the buyer and the property in the goods is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (2) any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value of the goods, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming the owner of such goods upon full compliance with the terms of the contract.

"Buyer" means the person who buys or hires the goods covered by the conditional sale, or any legal successor in interest of such person.

"Filing district" means the subdivision of the state in which conditional sale contracts, or copies thereof, are required by this act to be filed.

"Goods" means all chattels personal other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming a part of land which are agreed to be severed before sale or under the conditional sale.

"Performance of the condition" means the occurrence of the event upon which the property in the goods is to vest in the buyer, whether such event is the performance of an act by the buyer or the happening of a contingency.

"Person" includes an individual, partnership, corporation, and any other association.

"Purchase" includes mortgage and pledge.

"Purchaser" includes mortgagee and pledgee.

"Seller" means the person who sells or leases the goods covered by the conditional sale, or any legal successor in interest of such person.

§ 62. **Primary rights of buyer.** The buyer shall have the right when not in default to retain possession of the goods, and he shall also have the right to acquire the property in the goods on the performance of the conditions of the contract. The seller shall be liable to the buyer for the breach of all promises and warranties, express or implied, made in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

§ 63. **Primary rights of seller.** The buyer shall be liable to the seller for the purchase price, or for installments thereof, as the same shall become due, and for breach of all promises made by him in the conditional sale contract, whether or not the property in the goods has passed to the buyer.

§ 64. **Conditional sales valid except as otherwise provided.** Every provision in a conditional sale reserving property in the seller after possession of the goods is delivered to the buyer,

shall be valid as to all persons, except as hereinafter otherwise provided,

§ 65. **Conditional sales void as to certain persons.** Every provision in a conditional sale reserving property in the seller shall be void as to any purchaser from or creditor of the buyer, who, without notice of such provision, purchases the goods or acquires by attachment or levy a lien upon them, before the contract or a copy thereof shall be filed as hereinafter provided. This section shall not apply to conditional sales of goods for resale.

§ 66. **Place of filing.** The conditional sale contract or a copy thereof shall be filed in the office of the city or town clerk in the city or town in which the purchaser resides, if he resides within the state at the time of the execution thereof, and if not, in the city or town where the goods are first kept for sale by the buyer after sale, except that where there is a county clerk's office in such city or town in which such conditional sale contract or copy thereof is required to be filed as aforesaid, such conditional sale contract or copy thereof shall be filed in such county clerk's office and except that such conditional sale contract or copy shall be filed in the city of New York as follows, namely: in the borough of Brooklyn, in said city, such instrument shall be filed in the office of the register of the county of Kings; in the borough of Queens, in said city, in the office of the clerk of Queens county; in the borough of Richmond, in said city, in the office of the clerk of the county of Richmond; in the borough of Manhattan, in said city, in the office of the register of the county of New York, and in the borough of Bronx, in said city, in the office of the register of the county of the Bronx. This section shall not apply to the contracts described in sections sixty-seven and sixty-eight.

§ 67. **Fixtures.** If the goods are so affixed to realty at the time of a conditional sale or subsequently as to become a part thereof and not to be severable wholly or in any portion without material injury to the freehold, the reservation of property as to any portion not so severable shall be void after the goods are so affixed as against any person who has not expressly assented to the reservation. If the goods are so affixed to realty at the time of a conditional sale or subsequently as to become part thereof but to be severable without material injury to the freehold, the reservation of property shall be void after the goods are so affixed as against subsequent purchasers of the realty for value and without notice of the conditional seller's title, unless the conditional sale contract, or a copy thereof, together with a statement signed by the seller briefly describing the realty and stating that the goods are or are to be affixed thereto, shall be filed before such purchase in the office where a deed of the realty would be recorded or registered to affect such realty. As against the owner of realty the reservation of the property in goods by a conditional seller shall be void when such goods are to be so affixed to the realty as to become part thereof but to be severable without material injury to the freehold, unless the conditional sale contract, or a copy thereof, together with a statement

signed by the seller briefly describing the realty and stating that the goods are to be affixed thereto, shall be filed before they are affixed, in the office where a deed would be recorded or registered to affect such realty.

§ 68. **Railroad equipment or rolling stock.** No conditional sale of railroad, or street or interurban railway equipment or rolling stock shall be valid as against the purchasers and creditors described in section sixty-five, unless the contract shall be acknowledged by the buyer or attested in like manner as a deed of real property, and the contract, or a copy thereof, shall be filed or recorded in the office of the secretary of state; and unless when any engine or car so sold is delivered there shall then be plainly and conspicuously marked upon each side thereof the name of the seller, followed by the word "owner."

§ 69. **Conditional sale of goods for resale.** When goods are delivered under a conditional sale contract and the seller expressly or impliedly consents that the buyer may resell them prior to performance of the condition, the same shall be valid whether filed or not except that the reservation of property shall be void against purchasers from the buyer in good faith for value and without actual knowledge of the condition of such contract.

§ 70. **Filing.** The filing officer shall mark upon the contract or copy filed with him the day and hour of filing and shall file the contract or copy in his office for public inspection. He shall keep a separate book in which he shall enter the names of the seller and buyer, the date of the contract, the day and hour of filing, a brief description of the goods, the price named in the contract and the date of cancellation thereof; except that in entering the contracts mentioned in section sixty-eight the secretary of state shall record either the sum remaining to be paid upon the contract or the price of the goods. Such book shall be indexed under the names of both seller and buyer. For filing and entering such contract or copy the filing officer shall be entitled to a fee of ten cents, except where provision is otherwise made by law and except that for filing and entering a contract described in section sixty-eight the secretary of state shall be entitled to a fee of one dollar.

§ 71. **Refiling.** The filing of conditional sale contracts provided for in sections sixty-five, sixty-six and sixty-seven shall be valid for a period of three years only. The filing of the contract provided for by section eighty-eight shall be valid for a period of fifteen years only. The validity of the filing may in each case be extended for successive additional periods of one year from the date of refiling by filing in the proper filing district a copy of the original contract within thirty days next preceding the expiration of each period, with a statement attached signed by the seller, showing that the contract is in force and the amount remaining to be paid thereon. Such copy, with statement attached, shall be filed and entered in the same manner as a contract or copy filed and entered for the first time, and the filing officer shall be entitled to a like fee as upon the original filing.

§ 72. **Cancellation of contract.** After the performance of the condition, upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods, the seller shall execute, acknowledge and deliver to the demandant a statement that the condition in the contract has been performed. If for ten days after such demand the seller fails to mail or deliver such a statement of satisfaction, he shall forfeit to the demandant five dollars and be liable for all damages suffered. Upon presentation of such statement of satisfaction the filing officer shall file the same and note the cancellation of the contract and the date thereof on the margin of the page where the contract has been entered. For filing and entering the statement of satisfaction the filing officer shall be entitled to a fee of ten cents, except that the secretary of state shall be entitled to a fee of fifty cents for filing and entering a statement of the satisfaction of a contract described in section sixty-eight.

§ 73. **Prohibition of removal or sale without notice.** Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from any filing district and sell, mortgage or otherwise dispose of his interest in them; but prior to the performance of the condition, no such buyer shall remove the goods from a filing district in which the contract or a copy thereof is filed, except for temporary uses for a period of not more than thirty days, unless the buyer not less than ten days before such removal shall give the seller personally or by registered mail written notice of the place to which the goods are to be removed and the approximate time of such intended removal; nor prior to the performance of the conditions shall the buyer sell, mortgage or otherwise dispose of his interest in the goods, unless he, or the person to whom he is about to sell, mortgage or otherwise dispose of the same, shall notify the seller in writing personally or by registered mail of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged or otherwise transferred, not less than ten days before such sale, mortgage or other disposal. If any buyer does so remove the goods, or does so sell, mortgage or otherwise dispose of his interest in them without such notice or in violation of the contract, the seller may retake possession of the goods and deal with them as in case of default in payment of part or all of the purchase price. The provisions of this section regarding the removal of goods shall not apply, however, to the goods described in section sixty-eight.

§ 74. **Refiling on removal.** When, prior to the performance of the condition, the goods are removed by the buyer from a filing district in this state to another filing district in this state in which such contract or a copy thereof is not filed, or are removed from another state into a filing district in this state where such contract or copy is not filed, the reservation of the property in the seller shall be void as to the purchasers and creditors described in section sixty-five, unless the conditional sale contract or a copy thereof shall be filed in the filing district

to which the goods are removed, within ten days after the seller has received notice of the filing district to which the goods have been removed. The provisions of this section shall not apply, however, to the goods described in section sixty-eight. The provisions of section seventy-one regarding the duration of the validity of the filing and the necessity for refiling shall apply to contracts or copies which are filed in a filing district other than that where the goods are originally kept for use by the buyer after the sale.

§ 75. **Fraudulent injury, concealment, removal or sale.** When, prior to the performance of the condition, the buyer maliciously or with intent to defraud, shall injure, destroy or conceal the goods, or remove them to a filing district where the contract or a copy thereof is not filed, without having given the notice required by section seventy-three, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall be guilty of a crime and upon conviction thereof shall be imprisoned in the county jail for not more than one year or be fined not more than five hundred dollars or both.

§ 76. **Retaking possession.** When the buyer shall be in default in the payment of any sum due under the contract, or in the performance of any other condition which the contract requires him to perform in order to obtain the property in the goods, or in the performance of any promise, the breach of which is by the contract expressly made a ground for the retaking of the goods, the seller may retake possession thereof. Unless the goods can be retaken without breach of the peace, they shall be retaken by legal process; but nothing herein shall be construed to authorize a violation of the criminal law.

§ 77. **Notice of intention to retake.** Not more than forty nor less than twenty days prior to the retaking, the seller, if he so desires, may serve upon the buyer personally or by registered mail a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken, and shall briefly and clearly state what the buyer's rights under this act will be in case they are retaken. If the notice is so served and the buyer does not perform the obligations in which he has made default before the day set for retaking, the seller may retake the goods and hold them subject to the provisions of sections seventy-nine, eighty, eighty-a, eighty-b and eighty-c regarding resale, but without any right of redemption.

§ 78. **Redemption.** If the seller does not give the notice of intention to retake described in section seventy-seven, he shall retain the goods for ten days after the retaking within the state in which they were located when retaken, during which period the buyer, upon payment or tender of the amount due under the contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in the contract as precedent to the passage of the property in the goods, or upon performance or tender of perform-

ance of any other promise for the breach of which the goods were retaken, and upon payment of the expenses of retaking, keeping and storage, may redeem the goods and become entitled to take possession of them and to continue in the performance of the contract as if no default had occurred. Upon written demand delivered personally or by registered mail by the buyer, the seller shall furnish to the buyer a written statement of the sum due under the contract and the expense of retaking, keeping and storage. For failure to furnish such statement within a reasonable time after demand, the seller shall forfeit to the buyer ten dollars and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for ten days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply, and the seller may resell the goods immediately upon their retaking. The provision of this section requiring the retention of the goods within the state during the period allowed for redemption shall not apply to the goods described in section sixty-eight.

§ 79. **Compulsory resale by seller.** If the buyer does not redeem the goods within ten days after the seller has retaken possession, and the buyer has paid at least fifty per centum of the purchase price at the time of the retaking the seller shall sell them at public auction in the state where they were at the time of the retaking, such sale to be held not more than thirty days after the retaking. The seller shall give to the buyer not less than ten days' written notice of the sale, either personally or by registered mail, directed to the buyer at his last known place of business or residence. The seller shall also give notice of the sale by at least three notices posted in different public places within the filing district where the goods are to be sold, at least five days before the sale. If at the time of the retaking five hundred dollars or more has been paid on the purchase price, the seller shall also give notice of the sale at least five days before the sale by publication in a newspaper published or having a general circulation within the filing district where the goods are to be sold. The seller may bid for the goods at the resale. If the goods are of the kind described in section sixty-eight, the parties may fix in the conditional sale contract the place where the goods shall be resold.

§ 80. **Resale at option of parties.** If the buyer has not paid at least fifty per centum of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods as prescribed in section seventy-nine, unless the buyer serves upon the seller, within ten days after the retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within thirty days after the service, in the manner, at the place and upon the notice prescribed in section seventy-nine. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.

§ 80-a. **Proceeds of resale.** The proceeds of the resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of the expenses of retaking, keeping and storing the goods, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

§ 80-b. **Deficiency on resale.** If the proceeds of the resale are not sufficient to defray the expenses thereof, and also the expenses of retaking, keeping and storing the goods and the balance due upon the purchase price, the seller may recover the deficiency from the buyer, or from any one who has succeeded to the obligations of the buyer.

§ 80-c. **Rights of parties where there is no resale.** Where there is no resale, the seller may retain the goods as his own property without obligation to account to the buyer except as provided in section eighty-e, and the buyer shall be discharged of all obligation.

§ 80-d. **Election of remedies.** After the retaking of possession as provided in section seventy-six the buyer shall be liable for the price only after a resale and only to the extent provided in section eighty-b. Neither the bringing of an action by the seller for the recovery of the whole or any part of the price, nor the recovery of judgment in such action, nor the collection of a portion of the price, shall be deemed inconsistent with a later retaking of the goods as provided in section seventy-six. But such right of retaking shall not be exercised by the seller after he has collected the entire price, or after he has claimed a lien upon the goods, or attached them, or levied upon them as the goods of the buyer.

§ 80-e. **Recovery of part payments.** If the seller fails to comply with the provisions of sections seventy-eight, seventy-nine, eighty, eighty-a and eighty-c, after retaking the goods, the buyer may recover from the seller his actual damages, if any, and in no event less than one-fourth of the sum of all payments which have been made under the contract, with interest.

§ 80-f. **Waiver of statutory protection.** No act or agreement of the buyer before or at the time of the making of the contract, nor any agreement or statement by the buyer in such contract, shall constitute a valid waiver of the provisions of sections seventy-eight, seventy-nine, eighty, eighty-a and eighty-e; except that the contract may stipulate that on such default of the buyer as is provided for in section seventy-six, the seller may rescind the conditional sale, either as to all the goods or as to any part thereof for which a specific price was fixed in the contract. If the contract thus provides for rescission, the seller at his option may retake such goods without complying with or being bound by the provisions of sections seventy-seven to eighty-e inclusive, as to the goods retaken, upon crediting the buyer with the full purchase price of those goods. So much of this credit as is necessary to cancel any indebtedness of the buyer to the seller shall be so applied, and the seller shall repay to the buyer on demand any surplus not so required.

§ 80-g. **Loss and increase.** After the delivery of the goods to the buyer and prior to the retaking of them by the seller, the risk of injury and loss shall rest upon the buyer. The increase of the goods shall be subject to the same conditions as the original goods.

§ 80-h. **Rules for cases not provided for.** In any case not provided for in this article the rules of law and equity, including the law merchant, and in particular those relating to principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall continue to apply to conditional sales.

§ 80-i. **Uniformity of interpretation.** This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 80-j. **Construction of article.** Nothing in this article contained shall be deemed to affect the provisions of section sixty-four of the personal property law, or any other provision of law regulating or relating to the official method of filing, refiling, indexing, canceling or satisfying contracts of conditional sale filed in any of the counties within the city of New York, or the fees payable therefor.

Saving
clause.

§ 3. The repeal of present article four of the personal property law, by this act, shall not impair the application of such article to conditional sales made prior to the time this act takes effect.

In effect
Sept. 1,
1922.

§ 4. This act shall take effect September first, nineteen hundred and twenty-two.

CHAPTER 643

AN ACT to amend the state printing law, in relation to department printing.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1917,
ch. 667
(revision of
L. 1921,
ch. 337).
§§ 3, 4, 7,
8, amended.

Section 1. Sections three, four, seven and eight of chapter six hundred and sixty-seven of the laws of nineteen hundred and seventeen, entitled "An act relating to state printing, constituting chapter fifty-eight of the consolidated laws," as last amended by chapter three hundred and thirty-seven of the laws of nineteen hundred and twenty-one, are hereby amended to read as follows:

§ 3. **Classification.** The public printing is hereby classified into three principal parts. The first part shall be known as the legislative printing, which shall include all printing done for or upon the order of the legislature. The second part shall be known as the department printing, which shall include all printing for the various offices, institutions and departments of the state,¹ other than legislative, classified as department printing by the board of

¹ Remainder of sentence new.

estimate and control, pursuant to this chapter. The third part shall be known as the printing of the session laws, which shall include the printing of all slips of the laws, the publication of the official and public editions of the session laws and the binding thereof.

§ 4. **Powers and duties of board.** It shall be the duty of said board, after public notice, and in accordance with rules and regulations to be prescribed by it, to let to the lowest bidder, as hereinafter provided, who shall give adequate security for the performance of the contract, all contracts for the work embraced in the three several parts in this chapter defined, except printing done pursuant to law in the prisons of the state, in the state charitable and benevolent institutions for the benefit of such institutions, or by the board or commission having fiscal control of such institutions, the printing of examination question papers or printing done for the education department or the schools under its jurisdiction in the rooms of the university of the state of New York by its employees,² the stationery used by the legislature,³ briefs and cases on appeal required by the attorney-general⁴ and the bulletins issued by the Geneva and Ithaca experimental stations.

The said board shall adopt and promulgate appropriate rules and regulations touching the manner of the performance of its work and prescribing the form and manner of advertisement for bids and all requisitions made upon it for printing, except that said board shall make no rule or regulation inconsistent with or in violation of the provisions of this chapter.

The board shall appoint two inspectors, who shall investigate and report to the said board on the qualifications and facilities of any person, firm or corporation proposing to perform any printing contract for which provision is made in this chapter. No contract shall be awarded to any bidder until the board shall have been satisfied, by such investigation, that the facilities and equipment of such bidder are ample and sufficient to insure the proper performance of said contract.

The quality and style of printing, paper and publication shall be the same in the legislative printing as in the year nineteen hundred and sixteen, and no change shall be made therein except with the consent of the board.

§ 7. **Department printing.** The department printing, constituting the second part hereinbefore described, shall include the blanks, circulars, blank books, pamphlets, envelopes, letter and note heads, other than those required for the use of the legislature, and all other printing work for the various departments and institutions of the state, other than the legislature, including the reports and bulletins. ⁴The board of estimate and control may exclude from the department printing and classify as supplies such blanks, circulars, blank books, pamphlets, envelopes, letter

² Words "the printing authorized by the election law" omitted.

³ Words "briefs and cases on appeal required by the attorney-general," new.

⁴ Remainder of paragraph new.

heads and note heads, and similar printing, as it deems proper, and may also divide and classify the department printing into two or more parts according to the kind, quality or quantity of work, or otherwise, as the board may determine; and, pursuant to this chapter, may advertise for and let separate contracts for each of such parts. The board may, from time to time, modify any exclusion or classification of department printing made pursuant to this section. Nothing herein contained shall be construed as repealing or affecting section one hundred and seventy-six of chapter forty-three of the consolidated laws.

Any state officer, department, commission, institution or board may deliver the copy of its report to the board on or before the first day of August, or as soon thereafter as possible, and when so delivered the form, nature and quantity of its contents shall be considered and approved by the board and after such approval ordered printed for transmission to the legislature in printed form. The board, in addition to the number of copies thereof required to be distributed pursuant to section forty-seven of the legislative law, may direct the printing of as many copies of reports of state officers, departments, commissions, institutions and boards as the board may deem necessary for the use of the legislature, the respective state officers, departments, commissions, institutions and boards, but such number shall not exceed the following:

Of the governor's message, two thousand copies; of the comptroller's report of the finances of the state, fifteen hundred copies; of the canals, two hundred and fifty copies; of the state treasurer's report, seven hundred copies; of the attorney-general's report, twelve hundred and fifty copies of the second volume containing the opinions; seven hundred copies of the first volume containing the attorney-general's report; of the engineer and surveyor, one thousand copies; of the report of the superintendent of insurance, three thousand copies; of the report of the adjutant-general, one thousand copies; of the report of the superintendent of public works, one thousand copies; of the report of the superintendent of prisons, one thousand copies; of the report of the board of charities, one thousand five hundred copies; of the report of the department of health, two thousand copies; of the report of the department of labor,⁵ three thousand five hundred copies; ⁶ of the report of the civil service commission, one thousand copies; of the report of the department of agriculture, three thousand copies; of the volumes containing the reports of the Geneva and Ithaca experiment stations, two thousand additional copies; of the report of the hospital commission, two thousand copies; of the report of the tax commissioner, three thousand copies; of the library report, one thousand copies; of the museum and natural history report, one thousand copies; of the

⁵ Words "department of labor" substituted for words "industrial commission."

⁶ Words "of the report of the commissioner of excise, one thousand five hundred copies," omitted.

annual report of the public service commission,⁷ three thousand copies; of the report of the commissioner of education, fifteen thousand copies; of the geologist's report, one thousand five hundred copies; of the report of the historian, two thousand copies; of the report of the conservation commission, two thousand copies; of the report of the Grand Army of the Republic, one thousand copies; of the report of the United Spanish War Veterans, one thousand copies; of the report of the American Legion, five thousand copies; of the report of the superintendent of banks, one thousand copies; of the report of the fiscal supervisor of charities, one thousand copies; of the report of the highway commission, two thousand copies; of the report of the probation commission, one thousand copies; of the report of the prison commission, one thousand five hundred copies; of the report of the court of claims, one thousand copies; of the report of the American Scenic and Historic Preservation Society, one thousand five hundred copies; and for all other institutions, boards and commissions reporting to the legislature and not referred to herein, five hundred copies each.

Upon request duly made therefor, not to exceed fifty of said copies shall be delivered to the state library, by the state officer, department, commission, institution and board receiving the same.

No report of any institution, board or commission shall be printed as hereinbefore provided for where the same is or can be printed by or in the institution making the same.

Whenever any department shall, under the provisions of law, issue a portion of its annual report in advance in the form of bulletins, such bulletins shall be printed by the contractor at the rates provided for in his contract.

In the case of any printing authorized by this section, or of any printing hereafter authorized by resolution of either branch of the legislature or by a concurrent resolution thereof, no extra charge shall be made except for extra paper or work beyond that required by the terms of the contract actually furnished with the approval of the comptroller, and for such extra paper and work the charge allowed shall not exceed the current market rates. Composition shall not be charged a second time on matter printed from type already set or plates made at state expense, but the board may make suitable allowance for handling of plates and reimposing type forms. In all cases where illustrations are used, the engravings and plates shall forthwith become the property of the state, and thereafter no charge shall be made for their subsequent use, except that the comptroller may make a suitable allowance for the handling of the plates.

Whenever any officer, bureau, board, commission, or any corporation or association shall make to more than one officer or body an annual report, the contractor shall not print such report for the year more than once at public expense, and the filing of a

⁷ Formerly read: "reports of the public service commissions."

copy of the report as so printed shall be deemed a compliance with any law requiring a report to any other officer or body than the one to which the original manuscript report was submitted; and any institution which makes a report to any bureau, department or commission, which report is thereafter included in the annual report of said bureau, department or commission to the legislature, shall not be entitled for its own use to additional copies of said report, unless otherwise specifically provided.

All extra copies of reports printed for the use of departments, institutions and boards shall be delivered by the contractor to said state officers, departments, institutions and boards.

All copies of messages and reports printed for the use of the legislature shall be delivered, one-third to the clerk of the senate and two-thirds to the clerk of the assembly, and shall be distributed as the legislature shall direct.

§ 8. **Proposals for department printing.** The several officers, institutions and departments of the state shall, prior to the first day of February in each year, or as soon thereafter as may be practicable, and oftener whenever necessary, transmit to the board an estimate in writing showing in detail all printing required for such office, institution or department during the ensuing fiscal year and containing such information with regard thereto as shall be required by the rules and regulations of said board. Said board shall, after approving such estimate, on or before the first day of May in each year, or as soon thereafter as may be practicable, give notice in such newspapers as it shall determine will be most likely to give adequate notice to bidders, that it will, thirty days after the publication of such notice, and on a day named therein, receive sealed proposals for department printing provided to be furnished under this chapter, pursuant to one or more contracts, in accordance with classifications made by the board,⁸ the same to be furnished as prescribed by law and in the notice published by said board for the fiscal year following the publication of said notice. Said board shall prepare, in duplicate, specifications for all department printing to be contracted for and shall invite all bids upon specifications, and shall let all contracts upon such specifications, and such specifications shall be a part of each said contract and shall not be changed or modified after the contract is awarded. Such duplicate specifications, when prepared, shall be filed not less than sixty days before the letting of said contract or contracts,⁹ in the office of said board and in the office of the comptroller of the state and shall be open to inspection at all times. The board may reject all bids submitted to it if in its opinion the lowest bid is excessive, and it may discriminate in favor of such bid as it may deem most favorable to the state. The public notice of the letting of contracts herein directed shall refer to the specifications therefor and to the filing of said specifications in the office of the board

⁸ Words "pursuant to one or more contracts, in accordance with classifications made by the board," new.

⁹ Words "or contracts" new.

and in the office of the comptroller of the state and shall set the time when and the place where the bids invited upon said specifications will be received. The specifications for such department printing must set forth in such detail as will adequately inform the proposing bidders of the nature, kind, quality and quantity thereof. Copies of such specifications shall be delivered to all applicants therefor, except that the said specifications may provide, in addition to the items specified therein, for the furnishing of additional department printing described in said items under the terms of the contract to be let therefor without stating the quantity thereof. The said specifications shall also provide that the bidders shall present their proposals in detail, bidding upon the several items set forth in the specifications. At the time when and at the place where bids are advertised to be received in the manner herein provided, the board shall convene in public meeting and shall publicly open the bids received and record them in a book which it shall keep for that purpose, without any change, correction or addition whatever. No bids shall be withdrawn or canceled until after the contract or contracts shall have been awarded, but the board may reject any bids which do not conform to its rules and regulations, and may reject all bids and again advertise for bids in the manner herein provided if in its opinion the interests of the state will be promoted thereby. Every bid received must be a sealed bid, and enclosed therewith the bidder shall deposit with the board a certified check or money for five per centum of the amount of his bid, as a guaranty that he will enter into the contract if it shall be awarded to him. Notice of the requirement of such deposit with the bid shall be embodied in the public notice of such letting, and such notice shall also require, and each contract shall provide, for the giving of a bond in such manner as the board shall prescribe, conditioned for the faithful performance of the contract. Each¹⁰ contract when awarded shall be executed in duplicate and one duplicate original thereof shall be forthwith filed in the office of said board and the other duplicate original thereof, together with bond accompanying said contract, shall be forthwith filed in the office of the comptroller of the state. Separate contracts may be made at any time for engraving, lithographing, wood-cuts, maps or for any description of printing or of any article of stationery not specifically mentioned in the contract or contracts¹¹ and involving an expense of more than five hundred dollars.

§ 2. This act shall take effect immediately.

¹⁰ Word "Each" substituted for word "The."

¹¹ Words "or contracts" new.

CHAPTER 644

AN ACT to amend the prison law, in relation to alien convicts of state prisons.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 161
added to
L. 1909,
ch. 47.

Section 1. Chapter forty-seven of the laws of nineteen hundred and nine, entitled "An act relating to prisons, constituting chapter forty-three of the consolidated laws," is hereby amended by inserting therein after section one hundred and sixty, a new section, to be section one hundred and sixty-one, to read as follows:

§ 161. Alien convicts of state prisons. The agent and warden of each state prison shall at least twenty days prior to the discharge or release on parole of an alien convict, notify the superintendent of state prisons of such impending discharge or release. The superintendent of state prisons shall thereupon cause an investigation to be made of the prison record and past history of such alien convict and shall immediately upon the termination of such investigation and at least ten days prior to the discharge or release on parole of such alien, cause the prison record of such alien convict, together with all facts disclosed by such investigation, and his recommendations as to deportation, to be forwarded to the department of justice at Washington.

§ 2. This act shall take effect immediately.

CHAPTER 645

AN ACT to amend the prison law, in relation to care of children born to inmates of penal institutions.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 47,
§ 22, as
added by
L. 1919,
ch. 19,
amended.

Section 1. Section twenty-two of chapter forty-seven of the laws of nineteen hundred and nine, entitled "An act relating to prisons, constituting chapter forty-three of the consolidated laws," as added by chapter twelve of the laws of nineteen hundred and nineteen, is hereby amended to read as follows:

§ 22. Births to inmates of penal institutions. If a woman confined in a state prison, reformatory, penitentiary or jail be pregnant and about to give birth to a child, the agent and warden, superintendent or other officer in charge of such institution, a reasonable time before the anticipated birth of such child, shall cause such woman to be removed from such institution and provided with comfortable accommodations, maintenance and medical

care elsewhere, under such supervision and safeguards to prevent her escape from custody as he may determine, and subject to her return to such institution as soon after the birth of her child as the state of her health will permit. The expense of such accommodation, maintenance and medical care shall be paid by such woman, or her relatives or friends, or from any funds of the institution which would be available for the hospital expenses of such inmate within the institution, or if not otherwise available, shall be a charge upon the county, city or town from which such inmate was committed to such institution and collectible by the agent and warden, superintendent or other officer in charge of such institution. ¹ A child so born shall not be returned to the institution in which the mother is confined unless it be a reformatory and the agent and warden, superintendent or other officer in charge of such institution may, upon proof being furnished by the father or other relatives of their ability to properly care for and maintain such child, give the child into the care and custody of such father or other relatives, who shall thereafter maintain the same at their own expense until the release of the mother of such child or until such child shall have been duly adopted as provided by law. If it shall appear that such father or other relatives are unable to properly care for and maintain such child, such officer shall place the child in the care of the superintendent of poor or other officer exercising the power of a superintendent of poor of the county from which such inmate was committed as a charge upon such county. Such superintendent of poor shall care for or place out such child as provided by law in the case of a child becoming dependent upon the county.

§ 2. This act shall take effect immediately.

CHAPTER 646

AN ACT to amend the public buildings law, in relation to admission to the New York State Soldiers and Sailors' Home.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section sixty-four of chapter forty-eight of the laws of nineteen hundred and nine, entitled "An act relating to public buildings, constituting chapter forty-four of the consolidated laws," as last amended by chapter one hundred and ninety of the laws of nineteen hundred and twelve,² is hereby amended to read as follows:

§ 64. Admission to home. Every honorably discharged soldier or sailor who served in the army or navy of the United States during the late rebellion, the Spanish-American war or the insur-

¹ Remainder of section new.

² Previously amended by L. 1911, ch. 577.

L. 1909,
ch. 48,
§ 64, as
amended by
L. 1912,
ch. 190,
amended.

rection in the Philippines, or who served in the military or naval forces of the United States or of the state of New York during the world war² who enlisted from the state of New York, or who shall have been a resident of this state for one year preceding his application for admission, and who shall need the aid or benefit of such home in consequence of physical disability or other cause within the scope of the regulations of the board, shall be entitled to admission thereto, subject to the conditions, limitations and penalties prescribed by the rules and regulations of the board, provided preference of admission be given to veterans of the civil war in case of lack of accommodations. The board of trustees shall require an applicant for admission to such home to file with the application for admission his own affidavit of residence and such affidavit shall be received as prima facie evidence of the residence of such applicant in any action or proceeding against the county of his residence, in which the residence of such applicant shall be material.

§ 2. This act shall take effect immediately.

CHAPTER 647

AN ACT to amend the public lands law, in relation to authorizing the commissioners of the state reservation at Niagara to retain and expend certain moneys for the construction of an elevator to the Cave of the Winds.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 9
added to
L. 1909,
ch. 50,
§ 102.

Section 1. Section one hundred and two of chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," is hereby amended by adding thereto a new subdivision, to be subdivision nine, to read as follows:

9. Have power and authority, notwithstanding the provisions of section thirty-seven of the state finance law and without payment to the state treasury, to retain from the receipts derived from the concession granted for the Cave of the Winds such sum as may be needed to construct an elevator which will provide for a better access thereto, and to construct or contract for the construction of such elevator accordingly.

§ 2. This act shall take effect immediately.

² Words "or who served in the military or naval forces of the United States or of the state of New York during the world war," new.

CHAPTER 648

AN ACT to amend the public lands law, in relation to the elimination of claims adverse to the state's claim of title.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section nineteen of chapter fifty of the laws of nineteen hundred and nine, entitled "An act relating to the public lands, constituting chapter forty-six of the consolidated laws," as last amended by chapter six hundred and forty-seven of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1909,
ch. 50,
§ 19, as
amended by
L. 1921,
ch. 647,
amended.

§ 19. **Payment of incumbrances on public lands; adverse claims; abandonment; costs.** The commissioners of the land office whenever they deem it for the best interest of the state may order the treasurer, on the warrant of the comptroller, to pay off and cancel any charges, assessments, or incumbrances, other than the lien of a tax under article ten of the tax law, existing on any lands belonging to the state or in which the state has an interest, or to acquire any outstanding undivided interest in such lands adverse to the title of the state, to perfect in the state a title to any such lands, or to protect the state's interest therein. Where the state has a tax deed to any lands in any county of the state, which in the opinion of the attorney-general would be declared void by the courts, the commissioners of the land office, on the filing with them of such opinion and the evidence upon which such opinion is based, may, by resolution, abandon same and any claim of title thereunder. ²Where the state has a tax deed to any lands within the Adirondack or Catskill parks or adjacent thereto, the conservation commission, with the consent of the commissioners of the land office and subject to the approval of the governor and the attorney-general, may, pursuant to the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen and acts supplemental thereto and amendatory thereof, whenever there is an adverse claim or claims of title to such lands, acquire by purchase a deed or conveyance of such lands from the person or persons so claiming adversely on such terms and conditions as such state officials may deem for the best interests of the state and to avoid litigation. In an action for partition of or to foreclose a mortgage on such lands wherein the commissioners of the land office are so empowered the plaintiff shall not be entitled to costs if the people of the state are made a party defendant, unless the commissioners of the land office, after a full presentation of the facts to them shall have deter-

¹ Previously amended by L. 1916, ch. 329; L. 1920, ch. 932.

² Words "; adverse claims" new.

³ Following sentence new.

mined before such action is brought against the state that the interests of the state did not warrant their making an order for the payment or cancellation of such mortgage, lien or incumbrance, or any amount due thereon, or for the acquisition of any outstanding undivided interest adverse to the state, or pursuant to this section, or unless the commissioners of the land office shall have failed to make such determination within three months after such full presentation of facts shall have been made to them by a verified statement in writing, and filed with the secretary of said commissioners at his office in the city of Albany, nor unless a certified copy of the commissioner's report of partition, and of the referee's or sheriff's report of sale, in case of a sale, filed in the action shall have been duly served upon the attorney-general; and in no such case wherein the people are made a party defendant because of an interest other than the lien of a tax under article ten of the tax law, shall any additional allowance under sections fourteen hundred and seventy-four or fourteen hundred and seventy-five of the civil practice act be made to the plaintiff.

§ 2. This act shall take effect immediately.

CHAPTER 649

AN ACT to amend the public officers law, in relation to filling vacancies in elective offices.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty-two of chapter fifty-one of the laws of nineteen hundred and nine, entitled "An act in relation to public officers, constituting chapter forty-seven of the consolidated laws," is hereby renumbered section forty-three, and such chapter is hereby amended by inserting therein a new section forty-two, to read as follows:¹

§ 42. **Filling vacancies in elective offices.** A vacancy occurring before October fifteenth of any year in any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term, or upon the occurrence of a vacancy in any elective office which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor may in his discretion make

¹ This section is derived from former election law (L. 1909, ch. 22), § 202, which was repealed by L. 1922, ch. 588, ante.

proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than thirty nor more than forty days from the date of the proclamation.

A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

§ 2. This act shall take effect immediately.

CHAPTER 650

AN ACT to amend the railroad law, in relation to maintenance of bridges over railroads.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ninety-three of chapter four hundred and eighty-one of the laws of nineteen hundred and ten, entitled "An act in relation to railroads, constituting chapter forty-nine of the consolidated laws," as last amended by chapter six hundred and ninety-eight of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1910,
ch. 481,
§ 93, as
amended by
L. 1921,
ch. 698,
amended.

§ 93. **Repair of bridges and subways at crossings.** When a highway crosses a railroad by an overhead bridge, the framework of the bridge and its abutments shall be maintained and kept in repair by the railroad corporation, and the roadway thereover and the approaches thereto shall be maintained and kept in repair by the municipality having jurisdiction over and in which the same are situated; except that in the case of any overhead bridge constructed prior to the first day of July, eighteen hundred and ninety-seven, the roadway over and the approaches to which the railroad corporation was under obligation to maintain and repair, such obligation shall continue, provided the railroad corporation

¹ Previously amended by L. 1913, ch. 744; L. 1916, ch. 484.

shall have at least ten days' notice of any defect in the roadway thereover and the approaches thereto, which notice must be given in writing by the town superintendent of highways or other duly constituted authority, and the railroad corporation shall not be liable by reason of any such defect unless it shall have failed to make repairs within ten days after the service of such notice upon it;* and except that in the case of any overhead bridge constructed in a town after January first, eighteen hundred and ninety-seven, and prior to January first, nineteen hundred and ten, if the town paid twenty-five per centum of the cost of such construction and such bridge, when completed, was upon a state highway and the state, prior to January ninth, nineteen hundred and sixteen, made any repairs to the approaches to or roadway on such bridge, the roadway on such bridge and the approaches thereto shall be maintained and kept in repair hereafter by the state, under the supervision and control of the state commission of highways in the manner provided by the highway law for the maintenance and repair of state and county highways. When a highway passes under a railroad, the bridge and its abutments shall be maintained and kept in repair by the railroad corporation, and the subway and its approaches shall be maintained and kept in repair by the municipality having jurisdiction over and in which the same are situated. In case such highway is a part of a state or county highway constructed or improved as provided in the highway law, the roadway over such railroad or the subway underneath the same, and the approaches thereto, shall be maintained and kept in repair under the supervision and control of the state commission of highways in the manner provided by the highway law for the maintenance and repair of state and county highways where such roadway, subway or approaches, or any of them, have been constructed or improved as a part of a state or a county highway.

§ 2. This act shall take effect immediately.

CHAPTER 651

AN ACT to amend chapter seventy-five of the laws of nineteen hundred and six, entitled "An act to supplement the provisions of law relating to the department of assessment and taxation of the city of Syracuse," in relation to the sprinkling, watering and flushing of streets.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1906,
ch. 75, § 8,
as amended
by L. 1916,
ch. 89,
amended.

Section 1. Section eight of chapter seventy-five of the laws of nineteen hundred and six, entitled "An act to supplement the provisions of law relating to the department of assessment and

* Remainder of sentence new.

taxation of the city of Syracuse," as amended by chapter eighty-nine of the laws of nineteen hundred and sixteen, is hereby amended to read as follows:

§ 8. The assessors shall assess to the several owners or occupants thereof and the common council shall levy an annual tax of five cents for each lineal foot of frontage thereof, upon all lands within the city adjoining or abutting upon any street in and along which any of the city water mains or distribution pipes are or hereafter may be laid, in all cases where no water rates have accrued or been paid to the water bureau during the calendar year in which the assessment is made. Assessment of lands where no water rates paid. Provided that in cases of such lands which are only partly occupied by buildings and which are not divided into lots separately assessed, the assessment shall be made upon the total frontage thereof after deducting therefrom one hundred feet for every such building whose owner or occupant pays water rates for city water consumed therein. Proviso. Provided also that corner lots abutting upon more than one such street shall be taxed only for the shorter frontage thereof and the remaining frontage in excess of eight rods. As a basis for such assessment the commissioner of public works shall on or before the first day of June in each year furnish or cause to be furnished to the city assessors, a complete statement of all lands within the city adjoining or abutting upon any street in and along which any of the city water mains or distribution pipes are laid, upon which lands water rates have not accrued or been paid to the water bureau for the use of city water during the said calendar year. Statement of lands as basis for assessment. In case at any time during the calendar year in which such assessment is made water rates shall be paid to the water bureau for the use of city water during said calendar year upon any lands assessed and taxed as above provided, the amount thereof shall be credited or rebated to the owner or occupant of such lands against whom such assessment was made, upon the rates so charged for the use of water, the amount taxed and paid in such calendar year, not exceeding the amount of such rates. Credits or rebates where water rates paid. Such tax shall be set down in a separate column of the general tax roll under the heading water tax, and shall be levied, corrected, enforced and collected in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof. How set down in tax roll. Levy and collection. Such water tax, together with the fees and percentages thereon when collected, shall be deposited by the city treasurer to the credit of the water department fund, and shall be applied to the same uses and purposes as the revenue derived from the consumers of water. To be credited to water department fund. The city treasurer shall keep a separate account of the water taxes, and upon payment thereof by any taxpayer, shall issue a duplicate water tax receipt or coupon showing the amount of water tax paid, the property upon which the same was assessed, and the name of the person to whom the assessment was made, which receipt or coupon may be received by the water bureau and applied upon the payment of water rates or charges when so applicable. Account of water taxes; receipts. On or before the first day of June of each and every year the com- Estimates for watering streets.

Assessment therefor.	missioner of public works shall estimate and certify to the assessors the cost of all improvements for the sprinkling, watering and flushing of the streets of the city, incurred and to be incurred during the current fiscal year, including the expenses incidental and appertaining thereto, together with a statement of the streets, or parts thereof covered by said improvements. The cost of said improvements, as so certified, shall be apportioned, assessed and levied pro rata per linear foot of frontage upon the property adjoining and abutting upon said streets or parts thereof, ¹ except such part thereof as shall be assessed upon any steam railroad or street surface railroad as provided by law. The rate of said tax per linear foot of frontage for each said improvement shall be determined by said assessors, and in the preparation of the next assessment roll for the general city tax, the amount of such frontage tax upon each parcel of real estate affected thereby appearing in said rolls shall be computed by said assessors and set down opposite said parcel in a separate column of the general tax roll under the heading sprinkling tax, and the same shall be levied, corrected, enforced and collected in the same manner by the same proceedings and with the same force and effect, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof. In case the amount estimated and assessed for any such improvement shall be insufficient or shall exceed the expense thereof, the amount of such deficiency or excess shall be taken into account and added or rebated in making any assessment upon the property effective for a like improvement during the succeeding year. The comptroller shall on or before the first day of June of each year report to the assessors the sum or sums properly chargeable against any parcel of property on account of repairs to or the construction of gutters or sidewalks or the incurring of any expenditure or obligation on the part of the commissioner of public works or commissioner of public safety, superintendent of building or health department, authorized by law, ordinance or regulation on account of and chargeable to such parcel, and the amount of any such charge or charges shall be apportioned and set down opposite said parcel in a separate column of the general tax roll under the heading "miscellaneous taxes" and the same shall be levied, corrected, enforced and collected in the same manner, with the same force and effect, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof. The amount of water, sprinkling and miscellaneous taxes authorized hereby shall not be counted as a part of the aggregate of the annual city tax levy authorized by law.
Rate of tax; computation of amount.	
Levy and collection; lien.	
Deficiency or excess.	
Miscellaneous taxes.	
Levy and collection; lien.	
Not part of annual tax levy.	§ 2. This act shall take effect immediately.

¹ Remainder of sentence new.

CHAPTER 652

AN ACT to amend chapter six hundred and eighty-four of the laws of nineteen hundred and five, entitled "An act to supplement the provisions of law relating to the department of public works of the city of Syracuse," in relation to assessment of part of cost of sprinkling or flushing of streets on railroads.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven of chapter six hundred and eighty-four of the laws of nineteen hundred and five, entitled "An act to supplement the provisions of law relating to the department of public works of the city of Syracuse," as last amended by chapter sixty-one of the laws of nineteen hundred and sixteen,¹ is hereby amended to read as follows:

L. 1906,
ch. 684,
§ 7, as
amended by
L. 1916,
ch. 61,
amended.

§ 7. The common council shall have jurisdiction and authority, without any petition therefor or consent thereto, to order the sprinkling, flushing, watering, and ² laying of dust and water or ³ substances other than water, and cleaning of any street or part thereof and to provide for and defray the expense thereof by assessment upon the property fronting thereon. The estimated cost of such improvement shall be assessed pro rata per linear foot of frontage upon the property fronting upon the street or part thereof along which such improvement is ordered to be made, provided, however, that if any part of the street or portion thereof so improved is occupied by the track or tracks of a steam railroad or street surface railway, the common council shall have jurisdiction and authority to fix and determine what proportionate part of the cost of said improvement shall be assessed upon said steam railroad or street surface railway,⁴ and all said costs⁵ shall be assessed, levied and collected at the same time as and as a part of the general city tax, in the manner hereinafter provided. If it shall determine to make any such improvement it shall cause a notice of the proposed improvement and of its intention to order the same to be served upon all persons interested by causing a copy of such notice to be published in five successive issues of each of the official papers (Sundays and legal holidays excepted), the last publication thereof to be at least ten days before such improvement shall be ordered, and such notice shall be deemed sufficient and no further or different notice shall be required. Such notice shall specify the time within which any person interested may object to such improvement, which time shall not expire before

Sprinkling,
flushing,
etc., of
streets.

Assessment
of expense.

Notice of
improvement.

¹ Previously amended by L. 1911, ch. 71.

² Word "and" new.

³ Words "water or" new.

⁴ Words "provided, however, that if . . . street surface railway," new.

⁵ Words "all said costs" new.

the regular meeting of the common council next succeeding the last publication, and that in case no objection is made within the time specified all persons interested will be deemed to have acquiesced in the proposed improvement. Objection must be made in writing subscribed by the party objecting or his duly authorized agent and delivered to the city clerk. If no such objection is so made within the time specified therefor, the common council may, at any regular meeting after the expiration of said ten days, by ordinance order the improvement to be made; but if any such objection has been so made the common council shall hear such objection and the improvement shall not be ordered except by ordinance adopted by a two-thirds vote of all the members of said common council. If the common council by ordinance shall so provide the city itself through its commissioner of public works may make such improvement without contract, and in such case the commissioner of public works shall keep an account of the expenses to the city of such improvement. In case the amount estimated and assessed for the same shall be insufficient or exceed the expense thereof the amount of such deficiency or excess shall be taken into account and added or rebated in making any assessment upon the property affected for a like improvement during the succeeding year.

Objection.

City may
make im-
provement
without
contract.

§ 2. This act shall take effect immediately.

CHAPTER 653

AN ACT to amend the surrogate's court act, generally.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§§ 55, 56,
63, 96, 141,
142, 148,
150, 216
amended.

Section 1. Sections fifty-five, fifty-six, sixty-three, ninety-six, one hundred and forty-one, one hundred and forty-two, one hundred and forty-eight, one hundred and fifty and three hundred and sixteen of the surrogate's court act are hereby amended to read, respectively, as follows:

§ 55. Citation; how served within state. Personal service of a citation within the state shall be made as follows:

Upon an adult person, or upon an infant of the age of fourteen years or upwards, by delivering a copy thereof to the person to be served.

Upon an infant under the age of fourteen years, by delivering a copy thereof¹ to his father, mother or guardian; or if there be none within the state, or if the infant does not reside with a parent, to the person having the care and control of him, or with whom he resides, or in whose service he is employed.

¹ Words "to the infant in person, and" omitted.

Upon a person judicially declared to be incompetent to manage his affairs by reason of lunacy, idiocy, or habitual drunkenness, or upon a corporation by delivering a copy thereof in the manner prescribed for personal service of a summons in an action in the supreme court upon such a person, or upon a corporation. Upon a public officer by delivering a copy thereof to such officer, or to one of his duly constituted deputies.

Where it appears, by affidavit, to the satisfaction of the surrogate from whose court a citation is issued, that proper and diligent effort has been made to serve it as hereinbefore prescribed in this section upon a resident of the state whose place of residence or place of business is known, and that the person to be served cannot be found at his residence or place of business, and cannot be elsewhere served within the state within a reasonable time, or, if found, that he evades service, so that it cannot be made; the surrogate may make an order directing that service thereof be made, by leaving a copy thereof, and of the order, if the respondent¹ is a domestic corporation or joint-stock or other unincorporated association at its principal office or place of business, or if a natural person at the residence of the respondent² with a person of proper age, if upon reasonable application, admittance can be obtained, and such person found who will receive it; or, if admittance cannot be so obtained, nor such a person found, by affixing the same to the outer or other door of the respondent's³ said place of business or office, or of his residence, and by depositing another copy thereof, properly enclosed in a postpaid wrapper, addressed to the respondent² at its said principal office or place of business, or to him at his place of residence, in the post-office at the place where he resides, or where said office, place of business or residence is located, or upon proof being made by affidavit that no such residence can be found, service of the citation⁴ may be made in such manner as the court may direct; the order, and the papers upon which it was granted, must be filed, and the service must be made, within ten days after the order is granted; otherwise the order becomes inoperative. On filing an affidavit, showing service according to the order, the citation is deemed served, and the same proceedings may be taken thereupon, as if it had been served by publication pursuant to an order for that purpose.

Where it is necessary in any special proceeding to cite known creditors, and it appears that the number of creditors or persons claiming to be creditors, residing within the state of New York, upon whom citation is required to be served, exceeds fifty, service thereof may be made upon them by publication thereof in such newspaper or newspapers and for such a length of time as shall be fixed by the surrogate, and by the mailing of a copy of such citation to each of them by deposit of a copy thereof in the post-office, properly enclosed in a postpaid sealed wrapper addressed to each of them at his last known post-office address as

¹ Word "respondent" substituted for word "defendant."

² Word "respondent's" substituted for word "defendant's."

⁴ Word "citation" substituted for word "summons."

stated in the order, at least twenty days prior to the return day thereof.

§ 56. **Service personally without the state, or by publication.** The surrogate from whose court a citation is issued or to be issued^{*} may make an order directing the service thereof personally without the state, or by publication, in either of the following cases:

1. Where it is to be served upon a foreign corporation, or upon a person who is not a resident of the state.

2. Where the person to be served is a resident of the state, and substituted service upon him cannot be authorized as provided in section fifty-five of this act, 'or where in the surrogate's discretion a person who is a resident of the state but is absent therefrom should be served without the state personally or by publication.

3. Where it is to be served upon a party, or a person required to be made a party, whose name, or residence, cannot be ascertained.

4. Where it is to be served upon one or more unknown creditors, next of kin, heirs, legatees or other persons, either individually or included in a class, to whom a citation has been directed, designating them by a general description, as prescribed in this act.

§ 63. **Appearance; how made and effect thereof.** In a surrogate's court, a party of full age may, unless he has been judicially declared to be incompetent to manage his affairs, appear and prosecute or defend a special proceeding in person, or by attorney regularly admitted to practice in the courts of record, at his election, except in a proceeding to punish him for contempt, or where he is required to appear in person, by special provision of law, or by a special order of the surrogate. An appearance must be evidenced by a notice of appearance signed by the party or by his attorney, or in the case of a public officer, by such officer or a duly constituted deputy in the name of such officer, and filed in the surrogate's court; and where no citation has been served on the person appearing, such 'appearance and notice must conform to the requirements of section forty-one of this act.

§ 96. **Objections to grant of letters.** Any person interested in the estate or fund may, before letters testamentary, of administration or of guardianship are granted, or a testamentary guardian or trustee is allowed to qualify and serve, file objections showing his interest in the estate or fund, and setting forth specifically one or more legal objections to granting the letters to one or more of the persons about to receive the same, or to allowing a testamentary guardian or trustee to qualify and serve. Where such objections are filed, the surrogate must stay the granting of letters to the person to whom objection is made^{*} or

^{*} Words "or to be issued" new.

^{*} Remainder of subd. 2 new.

^{*} Remainder of section formerly read: "notice must be signed by him and be acknowledged or proved, and duly certified."

^{*} Words "to the person to whom objection is made," new.

refuse to allow the testamentary guardian or trustee to qualify until the matter is disposed of.

§ 141. **Witnesses to be examined; proof required.** Before a written will is admitted to probate, two, at least, of the subscribing witnesses must be produced and examined, if so many are within the state, and competent and able to testify. * Where the will is on file in a court or public office, of another state of the United States, or in a court, or public office, of a foreign country, and under the laws of such state or country, the will cannot be removed, the surrogate may issue a commission to take the testimony in the matter; or where the will is brought to the surrogate's court by a representative of a public officer of a state or country, the surrogate may take the testimony in the matter and permit said representative to return the will to said state or country, and the testimony so taken and the decree admitting a will upon such testimony shall have the same force and effect as though the will had been filed or had remained in the surrogate's office. Before a nuncupative will is admitted to probate, its execution and the tenor thereof must be proved by at least two witnesses. The proofs must be reduced to writing. Any party to the proceeding may request the oral examination of the subscribing witnesses to the will and may examine such witnesses and any other witness produced by the proponent before the surrogate, without first filing objections to the probate of such will.

§ 142. **Absent witnesses to be accounted for; dispensing with testimony; commission; proof of handwriting.** The death, absence from the state, or incompetency by reason of lunacy, or otherwise of a subscribing witness required to be examined as prescribed in this or the last section, or the fact that such witness cannot, with due diligence, be found within the state, or can not be examined by reason of his physical or mental condition may be shown by affidavit or other competent evidence, and when so shown to the satisfaction of the surrogate, the surrogate may by the decree or by an order in writing, or by ¹⁰ an order entered in the minutes ¹¹ dispense with his testimony; or in a case where such witness is absent from the state and it is shown that his testimony can be obtained with reasonable diligence, the surrogate may, in his discretion, and shall upon the demand of any party, require his testimony to be taken by commission. Where the testimony of a subscribing witness has been dispensed with as provided in this section, and one subscribing witness has been examined, the will may be admitted to probate upon the testimony of such subscribing witness alone.

If all the subscribing witnesses to a written will be dead, or incompetent by reason of lunacy or otherwise, to testify, or unable to testify, or are absent from the state and their testimony has been dispensed with as provided in this section, or if a subscribing witness has forgotten the occurrence, or testifies against the

* Following sentence new.

¹⁰ Words "the decree or by an order in writing, or by," new.

¹¹ Words "or recited in the decree" omitted.

execution of the will, or was not present with the other witness at the execution of the will; the will may nevertheless be established, upon proof of the handwriting of the testator, and of the subscribing witnesses, and also of such other circumstances as would be sufficient to prove the will upon the trial of an action.

§ 148. **Notice to legatees and devisees of objections filed.** Whenever objections are filed to the probate of a will, the proponent shall file ¹² a notice stating the name of the testator, that his last will and testament has been offered for probate, the name and post office address of the proponent, and of each legatee, devisee or other beneficiary, who has not appeared by attorney, and the names of any other persons directed by the surrogate to be notified. Such notice shall be served on each of the parties therein named ¹³ in such manner and within such time as the surrogate shall direct, which notice shall have the additional statement included in or endorsed thereon that objections have been filed to the probate of such will and that the same will be heard on a day or at a term of court therein stated. Proof of due service of such notice shall be made and filed in the surrogate's office, and any decree in the proceeding shall not affect the right or interest of any such person unless he shall have been so notified.

§ 150. **Wills to be recorded and retained; exception.** Every will admitted to probate, together with the decree, order or judgment admitting it to probate shall be recorded in the proper surrogate's court. Where a written will is proved, it must be filed and remain in the surrogate's office, ¹⁴except in matters where the will is on file in a court or public office of another state or country under the laws of which it cannot be removed. But when it shall be shown, by affidavit or otherwise, to the satisfaction of the surrogate, that the decedent left real or personal property in another state or territory of the United States or in a foreign country, and that the laws of such state, territory, or country require the production of the original will before the provisions thereof become effective, the surrogate may, at any time after probate, and upon such notice to the parties interested in the estate as he may think proper, cause any original will remaining on file in his office to be sent by post or otherwise to any court which, or to any officer of such state, territory or country who, under the laws thereof, is empowered to receive the same for probate, or may deliver such will to any person interested in the probate thereof in such state, territory or country, or to his representative, upon such terms as he shall think proper for the preservation of the will and the protection of other parties interested in the estate.

§ 316. **Certain provisions made applicable to proceedings in surrogate's courts.** Except where a contrary intent is expressed

¹² Remainder of sentence formerly read: "the notice specified in section one hundred and forty-six and serve the same on each of the parties therein named and upon any other persons directed by the surrogate to be notified."

¹³ Words "Such notice shall be served on each of the parties therein named," new.

¹⁴ Remainder of sentence new.

in, or plainly implied from the context of this act,¹⁵ a provision of law or of rules, applicable to practice or procedure in the supreme court, applies to surrogates' courts and to the proceedings therein, so far as they can be applied to the substance and subject matter of a proceeding without regard to its form.

§ 2. This act shall take effect immediately.

CHAPTER 654

AN ACT to amend the tax law, in relation to disposition of revenues collected from tax on manufacturing and mercantile corporations.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision six of section two hundred and nineteen-h of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," such section having been added by chapter seven hundred and twenty-six of the laws of nineteen hundred and seventeen, and such subdivision amended by chapter four hundred and forty-seven of the laws of nineteen hundred and twenty-one,¹ is hereby amended to read as follows:

L. 1909,
ch. 62,
§ 219h,
subd. 6, as
added by
L. 1917,
ch. 726, and
amended by
L. 1921,
ch. 447,
amended.

6. As to any county not wholly included within a city the county treasurer shall within ten days after the receipt thereof pay to the chief fiscal officer of a city or to the chief fiscal officer of a village or to the supervisor of a town the portion of money received by him from the state comptroller to which such city, village or town is entitled, which shall be credited by such officer to general city, village or town purposes. The sum so paid to the supervisor of a town in Onondaga county² shall be further distributed by him as provided in subdivision seven following.

Payment
of share to
localities.

§ 2. Subdivision seven of section two hundred and nineteen-h of such chapter, such subdivision having been added by chapter four hundred and forty-seven of the laws of nineteen hundred and twenty-one, is hereby amended to read as follows:

§ 219h,
subd. 7, as
added by
L. 1921,
ch. 447,
amended.

7. Upon the distribution of such revenues as hereinbefore provided the entire allotment of any town in Onondaga county² paid to the supervisor thereof shall be further distributed by him as follows: One-third thereof shall be apportioned among the several school districts in such town in the proportions that the total amount of the assessed valuation of all the real property of such corporations in each of said school districts, respectively, or part thereof in such town, bears to the aggregate assessed valuation of all the real property of such corporations in the entire town, as

Distribution
of town
allotment.

¹⁵ Words "this act" new.

² Previously amended by L. 1918, ch. 417.

³ Words "in Onondaga county" new.

the same appears upon the last preceding town assessment-roll. The balance thereof shall be retained by him and credited to general town purposes.

§ 3. This act shall take effect immediately.

CHAPTER 655

AN ACT to amend the village law, in relation to collection of taxes by clerk.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 117a
added to
L. 1909,
ch. 64.

Section 1. Chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," is hereby amended by inserting therein a new section, to be section one hundred and seventeen-a, to read as follows:

§ 117-a. **Collection of taxes by clerk.** The board of trustees of any village may, by resolution, determine that village taxes shall be collected by the clerk, and if the office of collector shall not have been heretofore abolished, that no collector shall thereafter be elected therein. In such village the duplicate roll and warrant shall be signed only by the president and shall be directed to the clerk. All the provisions of this article relating to the delivery of a tax-roll and warrant, the extension of the time for the collection of taxes, and the return of such tax-roll and warrant, apply to the roll and warrant so delivered to the clerk, so far as practicable, except, upon the expiration of the time fixed for the collection of taxes, the clerk shall file the roll and warrant in his office, with a return, in accordance with the directions of the warrant, showing the total amount of taxes paid and each tax unpaid, with the receipt of the village treasurer for all taxes paid to him. Upon the delivery of the roll and warrant to the clerk, he shall publish in each newspaper actually printed in the village, once in each week for four consecutive weeks, and post in five public places in the village, a notice that such tax-roll and warrant have been left with him for the collection of the taxes therein levied, and designating one or more convenient places in the village where he will receive taxes for thirty days after the first publication and posting of said notice, from nine o'clock in the morning until four o'clock in the afternoon, and that for said thirty days taxes may be paid to him without additional charge; and that all such taxes remaining unpaid after the expiration of said thirty days will thereafter bear interest at the rate of twelve per centum per annum, until the return of the tax-roll and warrant. The clerk shall attend at the time and place specified in said notice, and may receive such taxes. After the expiration of said thirty days the clerk shall proceed to collect the taxes remain-

ing unpaid, with interest as herein provided, but without any other fee or charge, and for that purpose be possessed of all the powers of a town collector.

§ 2. This act shall take effect immediately.

CHAPTER 656

AN ACT to amend the Greater New York charter, in relation to promotions of lieutenants of police.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and eighty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as last amended by chapter seven hundred and forty of the laws of nineteen hundred and twenty,¹ is hereby amended to read as follows:

L. 1901,
ch. 466,
§ 288, as
amended by
L. 1920,
ch. 740,
amended.

ID; PROMOTIONS.

§ 288. Promotions of officers and members of the police force shall be made by the police commissioner, as provided in section one hundred and twenty-four of this act, on the basis of seniority, meritorious police service and superior capacity, as shown by competitive examination, but no detail to act as inspector, or to service in the detective bureau, as hereinafter provided, shall be deemed a promotion. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The police commissioner shall transmit to the municipal civil service commission in advance of such examination the complete record of each candidate for promotion. Sergeants shall be selected from among patrolmen of the first grade. Lieutenants of police shall be selected from among sergeants who shall have served at least one year continuously as such. Captains shall be selected from among lieutenants of police who shall have served at least one year² as such.

The police commissioner shall, in the exercise of his discretion, from time to time detail nineteen captains and so many others as the board of estimate and apportionment upon the recommendation of the mayor and the police commissioner may authorize to act as inspectors, with the title while so acting of inspectors of police, and at his pleasure may revoke any or all such details. While so detailed such officer shall receive a salary to be fixed by the board

¹ Previously amended by L. 1907, ch. 160; L. 1916, ch. 611; L. 1917, ch. 395.

² Formerly "three years."

of aldermen upon the recommendation of the board of estimate and apportionment, as provided in section fifty-six of this act, in addition to the amount of salary which regularly attaches to the office of captain. When a captain shall have acted under regular detail as inspector during a period or periods aggregating five years, such officer shall have the same rights in respect to the relief pension fund as were vested by law in inspectors of police on the first day of February in the year nineteen hundred and seven; provided, however, that when the commissioner designates a captain to act in the place of a captain under regular detail as inspector, during the temporary absence or disability of the latter, the officer so designated shall not be entitled to any additional salary, and the period of such designation shall not be counted in his favor in computing such five-year period. A captain, while detailed to act as inspector, shall be chargeable with and responsible for the discipline and efficiency of the force under his command.

§ 2. This act shall take effect immediately.

CHAPTER 657

AN ACT to amend the village law, in relation to pavements, sidewalks, streets and sewers.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

L. 1909,
ch. 64,
§ 166, as
amended by
L. 1919,
ch. 149,
amended.

Section 1. Section one hundred and sixty-six of chapter sixty-four of the laws of nineteen hundred and nine, entitled "An act relating to villages, constituting chapter sixty-four of the consolidated laws," as last amended by chapter one hundred and forty-nine of the laws of nineteen hundred and nineteen,¹ is hereby amended to read as follows:

§ 166. **Pavements and sidewalks.** The board of trustees may cause a street in the village, or part thereof, to be graded or the sidewalk to be constructed of stone, cement, brick or similar substance or flagged or curbed or the street paved, or any one or more of such acts performed wholly at the expense of the village, or of the owners of the adjoining land, or partly at the expense of each; and where the street or part thereof is wholly within the village, but the exterior line thereof constitutes the village boundary, such acts may be performed, as to the part of such street within the village, either wholly at the expense of the village or the owners of adjoining land within and without the village or partly at the expense of the village and partly at the expense of such owner; but such² a street shall not be so graded, flagged or

¹ Previously amended by L. 1909, ch. 430.

² Word "such" new.

constructed as above provided or curbed or paved wholly at the expense of the owners of the adjoining land, unless a petition therefor be presented to the board of trustees signed by the owners of at least two-thirds of the frontage on the street, or portion thereof, proposed to be so improved, if the improvement is to consist of grading or curbing or paving, and by the owners of more than one-half of the frontage on the street or on the side thereof proposed to be improved if the improvement consists of flagging or otherwise constructing a sidewalk as above provided, and a hearing given thereon to all persons interested, on a notice of at least ten days. If such improvement is so required to be constructed or repaired wholly at the expense of the owners of the adjoining lands, a notice specifying the place and manner, and the time, not less than thirty days, within which the said improvement is required to be constructed or repaired, shall be served upon the owners. If an owner shall not construct or repair the street as required by the notice, the board of trustees may cause the same to be so constructed or repaired, and assess the expense thereof upon the adjoining land. If a street is to be so improved, constructed or repaired at the joint expense of the village and the owner of the adjoining land, the board of trustees may cause the same to be constructed or repaired, and assess upon the adjoining land the proportion of the expense chargeable against the same; or it may direct the owner to contribute labor or materials therefor. The total amount expended for street paving in any fiscal year from the moneys raised during such year, for street purposes, otherwise than in pursuance of a village election, shall not be more than one-half thereof. No land owner shall be required to grade, flag, construct sidewalk, curb or pave or bear the expense of so doing any portion of the street not in front of such land, nor beyond the center of the street,* except where a street is bounded on one side by a public waterway or public park and the owners of two-thirds of the frontage on the other side of such street petition for both the grading and paving of the street at the expense of the property benefited, in which event each owner may be required to grade and pave, or either, as the case may be, the entire width of the street in front of his property or pay the expense thereof in the manner herein provided and except where a street or boulevard has two roadways separated in the center by a parking, the owners of two-thirds of the frontage on either roadway may petition for the making of such improvement or improvements wholly at the expense of the property benefited and each owner of property fronting on such roadway may thereupon be required to grade and pave or both grade and pave, as the case may be, the entire width of the roadway in front of his property or pay the expense thereof as herein provided. All grading done or flagging or sidewalk laid or curb set or pavements laid by the owners of adjoining land shall be laid under the supervision and in accordance with the directions of the board of trustees. The expense

* Remainder of sentence new.

of constructing a pavement or of grading done or flagging or sidewalk laid or cub set or any part thereof may be raised in an entire amount or in smaller amounts from time to time, as the board of trustees may determine. If any portion of such expense is to be borne by the village, bonds or certificates of indebtedness may be issued. If such expense or any part thereof is to be assessed upon adjoining land, the board of trustees may apportion it upon the lands and assess the same as a whole or by installments. Notice of an assessment based upon such apportionment shall be given to the land owners, who may pay the amounts assessed within ten days after such notice. At the expiration of that time bonds or certificates of indebtedness may be issued for the aggregate amount of such assessment then remaining unpaid. Taxes for the amount of such bonds or certificates issued on account of default in the payment of the amount apportioned upon the adjoining land shall be levied and collected in the manner prescribed by this chapter in case of unpaid assessments for the construction of sewers.

‘No village election shall be required for the issuance of certificates of indebtedness or bonds by the board of trustees as in this section. The spaces within street intersections included within a street or portion of street improved in accordance herewith must be improved at the expense of the village even though a petition, as herein provided, shall demand that such street or portion of street, be so improved wholly at the expense of the property benefited.

Several streets or portions of streets may be included in one and the same petition hereunder, so long as the owners of two-thirds or more of the frontage on each such street or portion of street join in signing such petition.

§§ 166a,
166b added.

§ 2. Such chapter is hereby amended by adding two new sections, to be sections one hundred and sixty-six-a and one hundred and sixty-six-b, to read as follows:

§ 166-a. **Temporary financing.** Upon the expiration of the thirty days provided in the preceding section for the making of an improvement by the owners of the property benefited, the board of trustees may proceed to borrow temporarily such sum or sums as it may deem requisite for the completion of the work, which said sum or sums shall be repaid during the current fiscal year from assessments paid by owners of the property benefited and from the proceeds of certificates of indebtedness or bonds issued as provided in the preceding section.

§ 166-b. **Filling low, swamp and waste lands.** The board of trustees may, by ordinance, require the filling of low, swamp and waste lands within the village and upon the failure of the owner thereof to so fill such lands within a time to be fixed in such ordinance, the board of trustees shall cause the said lands to be filled and assess the cost thereof against the property benefited.

‘Remainder of section new.

§ 3. Sections two hundred and sixty-four and two hundred and seventy-four of such chapter are hereby amended to read as follows: §§ 264, 274
amended.

§ 264. **Construction of sewers wholly at the expense of property benefited.** The owners of two-thirds of the entire frontage of the portion of a street or streets in which a sewer is proposed to be constructed may present to the board of sewer commissioners a petition for the construction of such a sewer. The board shall cause a notice of at least ten days to be given to each person owning land fronting on such portion of such street or streets, of a time and place where it will meet and hear persons interested in the construction of such sewer. After such hearing the board may grant the petition in whole or in part, and shall construct a sewer as ordered, and assess the entire expense thereof upon the property benefited. Where such petition is for the construction of a sewer through different streets, such sewer shall be deemed one sewer, and such streets, one continuous street, for the purposes of this section. A petition under this section may limit the maximum amount of the expense to be incurred in the construction of such sewer. ⁵ Where a street or portion of street is bounded on one side by a public waterway or a public park the other side thereof shall be deemed for the purposes of this act the entire frontage thereon and where a street or boulevard has two roadways separated in the center by a parking, the frontage on the outer side of each such roadway shall be deemed for the purposes of this act the entire frontage thereon.

§ 274. **Expense of construction; how raised.** The expense of constructing a sewer or a sewer system may be raised in an entire amount or in smaller sums from time to time as the board of sewer commissioners may determine. If any portion of such expense is to be borne by the village, bonds or certificates of indebtedness may be issued therefor. If such expense or any part thereof is to be assessed upon property benefited, the board may assess the same, or the instalment to be raised, on the several benefited lots or parcels, in accordance with the apportionment and ratio established under this article. Notice of such assessment shall be given to the owners, who may pay the amounts assessed within ten days after the service of such notice. At the expiration of such time bonds or certificates of indebtedness may be issued for the aggregate amount of such assessment then remaining unpaid. ⁵ No village election shall be required for the issuance of such bonds or certificates of indebtedness by the board of trustees.

§ 4. This act shall take effect immediately.

⁵ Following sentence new.

CHAPTER 658

AN ACT to amend the insurance law, in relation to the power of insurance companies to purchase, improve and sell or convey real property during certain emergencies.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 20a added
to L. 1909,
ch. 33.

Section 1. Chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended by inserting therein a new section, to follow section twenty, to be section twenty-a, to read as follows:

§ 20-a. **Powers as to real property during certain emergencies.** Until March first, nineteen hundred and twenty-four, and so long thereafter as the emergency in housing conditions mentioned in certain acts of the legislature of nineteen hundred and twenty and nineteen hundred and twenty-one shall continue, every life insurance corporation, foreign or domestic, transacting business in this state, may purchase land in any city of the first class in this state and on such land and on land in such a city acquired pursuant to any other provision of this chapter may erect apartment, tenement or other dwelling houses, not including hotels. Such corporations may thereafter hold, maintain, manage, collect and receive income from, and, from time to time, sell or convey the lands so purchased and the improvements thereon. The aggregate cost of all the lands so purchased and improvements so made shall not exceed ten per centum of the total admitted assets of such corporation as of December thirty-first, nineteen hundred and twenty-one, as such assets are shown in the annual report of such corporation to the superintendent of insurance for the year nineteen hundred and twenty-one. The cost of land acquired under this section shall not be allowed as an admitted asset unless improved as provided by this section, nor, if so improved, shall the cost of such land and improvements thereon be so allowed unless the average net rental value of such apartment, tenement or other dwelling house erected thereon, as estimated at the commencement of construction, be nine dollars or less per month per room.

§ 2. This act shall take effect immediately.

CHAPTER 659

AN ACT to amend the insurance law, in relation to mutual life, health and casualty corporations.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision eleven of section seventy of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," such subdivision having been added by chapter two hundred and four of the laws of nineteen hundred and fourteen and last amended by chapter four hundred and eight of the laws of nineteen hundred and twenty-one² is hereby amended to read as follows:

L. 1909,
ch. 33,
§ 70,
subd. 11,
as amended
by L. 1921,
ch. 408,
amended.

11. Against loss or damage to elevators or other property, excepting loss or damage by fire, caused by the maintenance, operation or use of elevators, and including loss by legal liability for damage to property resulting from such operation, maintenance or use of elevators; by making and filing in the office of the superintendent of insurance a certificate signed by each of them, stating their intention to form a corporation for the purpose or purposes named in some one of the foregoing subdivisions, specifying the subdivisions; and setting forth a copy of the charter which they propose to adopt, which shall state the name of the proposed corporation, the place where its principal office is to be located, the kind of insurance to be undertaken, and under which of the foregoing subdivisions it is authorized, the mode and manner in which its corporate powers are to be exercised, the number of its directors, the manner of electing its directors and officers, a majority of whom shall be citizens and residents of this state, the time of such elections, the names and postoffice addresses of the directors who shall serve until the first annual meeting of such corporation, the manner of filling vacancies, the amount of its capital and such other particulars as may be necessary to explain and make manifest the objects and purposes of the corporation.

Corporation
to insure
against
loss to
elevators,
etc.

Such certificate shall be proved or acknowledged and recorded in a book to be kept for that purpose, and a certified copy thereof delivered to the persons executing the same. Except as herein provided, no corporation shall be formed under this article for the purpose of undertaking any other kind of insurance than that specified in some one of the foregoing subdivisions, or more kinds of insurance than are specified in a single subdivision; but a cor-

Certificate
of incor-
poration.

Miscellaneous
provisions.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1909, ch. 302; L. 1910, ch. 637; L. 1911, ch. 324; L. 1912, ch. 232; L. 1913, ch. 304; L. 1914, ch. 204; L. 1920, ch. 563.

poration may be formed for all the purposes combined, or any two or more of them specified in the first and second subdivisions, and clause (a) of the third subdivision, or for all the purposes combined, or any two or more of them specified in the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh subdivisions; provided, however, that policies under subdivision nine shall be issued only by companies authorized to issue policies under subdivisions two, three or five. No corporation or association shall transact, in connection with any other kind of insurance mentioned in the foregoing subdivisions, the business of guaranteeing and indemnifying merchants, traders and those engaged in business and giving credit from loss and damage by reason of giving and extending credit to their customers and those dealing with them, except such corporation or association as was authorized to transact such business before June first, nineteen hundred and five; but such corporation or association may continue to transact such business with all the powers and privileges theretofore possessed or enjoyed by it. No one policy issued by any one corporation shall embrace more kinds of insurance than are specified in one of such subdivisions, except that a policy may embrace risks specified in subdivisions one and two, and in subdivision two and clause (a) of subdivision three, and also that companies electing to issue policies under subdivision nine may embrace in one policy risks under subdivision two, clause (a) of subdivision three, and subdivisions five and nine, or either of them, and also that companies electing to issue policies on residences and private apartments may embrace in one policy risks under subdivisions three, five, six, seven, ten and eleven of this section, or any or either of them.

§ 71, as
amended by
L. 1921,
ch. 408,
amended.

§ 2. Section seventy-one of such chapter, as last amended by chapter four hundred and eight of the laws of nineteen hundred and twenty-one,³ is hereby amended to read as follows:

§ 71. **Completion of organization.** No such certificate of intention and proposed charter shall be filed with the superintendent of insurance unless the persons signing such certificate shall previously have published twice a week, for three successive weeks, in a public newspaper designated by the superintendent, a notice of their intention to form such a corporation. Upon filing in the office of the superintendent of insurance the certificate, copy of proposed charter and proof of publication of notice of intention to form a corporation as hereinbefore required, such corporation may open books to receive subscriptions to the capital stock and keep them open until the whole of such stock or the minimum amount of insurance above mentioned has been subscribed for, and collect such subscriptions to the capital stock; and may invest such capital or moneys in the manner prescribed in this chapter. No such corporation shall transact any business of insurance until the capital has been fully paid in in cash, nor until it shall have deposited with the superintendent of insurance one hundred

³ Previously amended by L. 1920, ch. 563.

thousand dollars in the securities required by law. If organized for purposes mentioned in two or more of the subdivisions of section seventy, it shall deposit with the superintendent the same amount in securities in the aggregate not exceeding two hundred and fifty thousand dollars, as if corporations had been separately formed for such purposes. The securities deposited pursuant to this section shall be held by the superintendent in trust for the benefit and protection of and as security for the policyholders and creditors of the corporation.

§ 3. Chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended by adding, after section seventy-one, a new section to be section seventy-one-a, to read as follows: § 71a
added.

§ 71-a. **Mutual life, health and casualty corporations.** 1. Thirteen or more persons may become a corporation for the purpose of making insurance on the mutual plan upon any of the risks specified in the first, second, fifth, sixth, seventh, eighth, tenth or eleventh subdivision of section seventy of this chapter, by making and filing in the office of the superintendent of insurance a declaration signed by each of the incorporators, stating their intention to form a corporation for the purpose or purposes named in some one of the above mentioned subdivisions, specifying the subdivision; and setting forth a copy of the charter which they propose to adopt, which shall state the name of the proposed corporation, which shall contain the word "mutual," the place where its principal office is to be located, the mode and manner in which its corporate powers are to be exercised, the number of its directors, the manner of electing its directors and officers, a majority of whom shall be citizens and residents of this state, the time of such elections, the manner of filling vacancies, the names and post-office addresses of the directors who shall serve until the first annual meeting of such corporation, and such other particulars as may be necessary to explain and make manifest the objects and purposes of the corporation.

2. Such declaration shall be proved or acknowledged and recorded in a book to be kept for that purpose, and a certified copy thereof delivered to the persons executing the same. Except as herein provided, no corporation shall be formed under this section for the purpose of undertaking any other kind of insurance than that specified in some one of the above mentioned subdivisions, or more kinds of insurance than are specified in a single subdivision. No one policy issued by any one corporation shall embrace more kinds of insurance than are specified in one of such subdivisions, except that a policy may embrace risks specified in subdivisions one and two, and also that companies electing to issue policies on residences and private apartments may embrace in one policy risks under subdivisions five, six, seven, ten and eleven of this section, or any or either of them.

3. No such certificate of intention and proposed charter shall be filed with the superintendent of insurance unless the persons sign-

poration may be formed for all the purposes combined, or any two or more of them specified in the first and second subdivisions, and clause (a) of the third subdivision, or for all the purposes combined, or any two or more of them specified in the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh subdivisions; provided, however, that policies under subdivision nine shall be issued only by companies authorized to issue policies under subdivisions two, three or five. No corporation or association shall transact, in connection with any other kind of insurance mentioned in the foregoing subdivisions, the business of guaranteeing and indemnifying merchants, traders and those engaged in business and giving credit from loss and damage by reason of giving and extending credit to their customers and those dealing with them, except such corporation or association as was authorized to transact such business before June first, nineteen hundred and five; but such corporation or association may continue to transact such business with all the powers and privileges theretofore possessed or enjoyed by it. No one policy issued by any one corporation shall embrace more kinds of insurance than are specified in one of such subdivisions, except that a policy may embrace risks specified in subdivisions one and two, and in subdivision two and clause (a) of subdivision three, and also that companies electing to issue policies under subdivision nine may embrace in one policy risks under subdivision two, clause (a) of subdivision three, and subdivisions five and nine, or either of them, and also that companies electing to issue policies on residences and private apartments may embrace in one policy risks under subdivisions three, five, six, seven, ten and eleven of this section, or any or either of them.

§ 71, as
amended by
L. 1921,
ch. 408,
amended.

§ 2. Section seventy-one of such chapter, as last amended by chapter four hundred and eight of the laws of nineteen hundred and twenty-one,^{*} is hereby amended to read as follows:

§ 71. **Completion of organization.** No such certificate of intention and proposed charter shall be filed with the superintendent of insurance unless the persons signing such certificate shall previously have published twice a week, for three successive weeks, in a public newspaper designated by the superintendent, a notice of their intention to form such a corporation. Upon filing in the office of the superintendent of insurance the certificate, copy of proposed charter and proof of publication of notice of intention to form a corporation as hereinbefore required, such corporation may open books to receive subscriptions to the capital stock and keep them open until the whole of such stock or the minimum amount of insurance above mentioned has been subscribed for, and collect such subscriptions to the capital stock; and may invest such capital or moneys in the manner prescribed in this chapter. No such corporation shall transact any business of insurance until the capital has been fully paid in in cash, nor until it shall have deposited with the superintendent of insurance one hundred

^{*} Previously amended by L. 1920, ch. 563.

thousand dollars in the securities required by law. If organized for purposes mentioned in two or more of the subdivisions of section seventy, it shall deposit with the superintendent the same amount in securities in the aggregate not exceeding two hundred and fifty thousand dollars, as if corporations had been separately formed for such purposes. The securities deposited pursuant to this section shall be held by the superintendent in trust for the benefit and protection of and as security for the policyholders and creditors of the corporation.

§ 3. Chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended by adding, after section seventy-one, a new section to be section seventy-one-a, to read as follows: § 71a
added.

§ 71-a. **Mutual life, health and casualty corporations.** 1. Thirteen or more persons may become a corporation for the purpose of making insurance on the mutual plan upon any of the risks specified in the first, second, fifth, sixth, seventh, eighth, tenth or eleventh subdivision of section seventy of this chapter, by making and filing in the office of the superintendent of insurance a declaration signed by each of the incorporators, stating their intention to form a corporation for the purpose or purposes named in some one of the above mentioned subdivisions, specifying the subdivision; and setting forth a copy of the charter which they propose to adopt, which shall state the name of the proposed corporation, which shall contain the word "mutual," the place where its principal office is to be located, the mode and manner in which its corporate powers are to be exercised, the number of its directors, the manner of electing its directors and officers, a majority of whom shall be citizens and residents of this state, the time of such elections, the manner of filling vacancies, the names and post-office addresses of the directors who shall serve until the first annual meeting of such corporation, and such other particulars as may be necessary to explain and make manifest the objects and purposes of the corporation.

2. Such declaration shall be proved or acknowledged and recorded in a book to be kept for that purpose, and a certified copy thereof delivered to the persons executing the same. Except as herein provided, no corporation shall be formed under this section for the purpose of undertaking any other kind of insurance than that specified in some one of the above mentioned subdivisions, or more kinds of insurance than are specified in a single subdivision. No one policy issued by any one corporation shall embrace more kinds of insurance than are specified in one of such subdivisions, except that a policy may embrace risks specified in subdivisions one and two, and also that companies electing to issue policies on residences and private apartments may embrace in one policy risks under subdivisions five, six, seven, ten and eleven of this section, or any or either of them.

3. No such certificate of intention and proposed charter shall be filed with the superintendent of insurance unless the persons sign-

ing such certificate shall previously have published twice a week for three successive weeks, or once a week for six successive weeks, in a public newspaper in the county in which its principal office is to be located, a notice of their intention to form such corporation. Upon filing in the office of the superintendent of insurance such declaration and proof of publication of notice of intention to form the corporation as hereinbefore required, such corporation may open books to receive subscriptions for the kinds of insurance specified in its charter, and keep them open until the minimum amount of insurance hereinafter required has been subscribed for and the premiums for such insurance have been received. No corporation if organized for the purposes mentioned in subdivision one or two of section seventy shall transact any business until at least five hundred persons have subscribed in the aggregate for at least one million dollars of insurance upon their lives, or, if organized for the purposes mentioned in both subdivisions one and two, until five hundred persons have subscribed for one million dollars of the kind of insurance mentioned in each such subdivision as if corporations had been formed separately for such purpose, and shall each have paid in one full annual premium in cash upon the insurance subscribed for; nor until such corporation, if authorized to transact the business specified in one subdivision, shall have deposited with the superintendent of insurance one hundred thousand dollars in the securities required by law, or, if organized for purposes mentioned in both subdivisions one and two of section seventy, it shall have deposited in such securities the sum of two hundred thousand dollars. The securities deposited pursuant to this section shall be held by the superintendent in trust for the benefit and protection of and as security for the policyholders and creditors of the corporation. No corporation organized for purposes specified in subdivisions five, six, seven, eight, ten or eleven of section seventy, shall transact any business until it has bona fide applications for insurance covering not less than four hundred separate risks, in not less than twenty policies to be issued to not less than twenty members, and has received the cash premiums therefor, the total amount of which shall be not less than fifty thousand dollars. Each policy and the by-laws of any such last mentioned corporation shall provide for an additional contingent premium at least equal to the cash premium specified in the policy, and the sum of such cash and contingent premiums shall be not less than one hundred and fifty thousand dollars.

4. The facts specified herein must be certified under oath to the superintendent of insurance by at least three incorporators and the superintendent of insurance must be satisfied that the membership list of the corporation is genuine and that every member has paid the premium upon the insurance applied for as above specified and will take the policies as agreed within thirty days after the superintendent of insurance has granted to the corporation a license to issue policies. If at any time it shall appear from an examination of the corporation or from any statement filed by it that the number of risks insured or the number

of policies in force or the number of members or the amount of premiums on insurance in force and the aggregate amount of contingent liability of the members are below the number and amounts required above on organization, the superintendent of insurance shall issue an order directing the corporation within a period of ninety days thereafter, to secure bona fide applications for insurance in such corporation, together with the premiums therefor, from persons who, together with the existing members, shall equal the number of members required above and whose insurance policies, together with those in force, cover the number of risks and provide for the amount of premiums and contingent liability of the members required upon organization. In the event that the corporation does not within such period become entitled to issue policies, the superintendent of insurance may in his discretion take proceedings for the liquidation of such corporation under section sixty-three of this chapter.

5. A corporation organized either under subdivision five, six, seven, eight, ten or eleven of section seventy of this chapter may in addition to the kind of insurance specified in such subdivision transact the kind of business specified in any other one of such above enumerated subdivisions by amending its charter and by-laws in accordance with the provisions of section fifty-two of this chapter, provided such amendment is first approved by a vote of three-fourths of its members in person or by proxy at a special meeting called for that purpose pursuant to notice given in accordance with the by-laws, which notice shall specify the additional kind of insurance which it is proposed to transact; and provided further that said corporation shall have and at all times maintain a surplus of at least one hundred thousand dollars and be in receipt annually of gross premiums of not less than two hundred thousand dollars. Any such corporation may further amend its charter to transact any of the other kinds of business specified in any or all of the other subdivisions enumerated in this paragraph upon taking the same proceedings above mentioned, provided that in addition to the surplus and annual premiums required for such first amendment it shall have and maintain for each such additional line a surplus of fifty thousand dollars and be in receipt annually of additional gross premiums of not less than one hundred thousand dollars.

6. Any such corporation, other than a corporation authorized to transact the insurance business specified in subdivisions one and two of section seventy of this chapter, may amend its charter in the manner above provided so as to issue policies guaranteeing the fidelity of persons holding places of public or private trust during such time as such corporation shall have a cash or invested surplus of not less than one million dollars.

7. Corporations organized under this section shall maintain the same reserves for the protection of policyholders and others who may have a right of action directly against such corporations as are required to be maintained by stock insurance corporations in relation to the same kind of insurance. In addition to any

premium or other reserve which may be required by law, it shall be lawful for any such corporation other than one authorized to transact the business specified in subdivision one of section seventy of this chapter to have and maintain a reserve or surplus to provide against extraordinary losses or for the retirement of any obligations or advances which may have been made to it in accordance with the provisions of this section, or for any other purpose connected with or incidental to its business, by appropriating from time to time from the net income of the corporation such sums as the board of directors may determine; provided that the sums so appropriated in any one year shall not exceed one-half of the premium received during that year, and provided further that the surplus maintained by such corporation shall not at any one time exceed five per centum of the amount of insurance in force.

8. The management of the business and affairs of such corporation shall be vested in a board of directors. Every such corporation shall have not less than thirteen directors, and such officers as shall be provided for in the certificate of incorporation or in the by-laws. By-laws may be adopted at a meeting of the directors of the corporation held after the receipt from the superintendent of insurance of a certified copy of the certificate of incorporation, and prior to the first annual meeting, provided the said by-laws shall first have been approved by the superintendent of insurance. Thereafter, by-laws may be made or amended only by members; provided that such by-laws or such amendments shall have first been approved by the superintendent of insurance. The directors shall be elected at the annual meetings of the members from among their number but any time after the first annual meeting the directors may be divided into three groups as nearly equal as possible and thereafter one group only elected in a manner to be provided by the by-laws. The board of directors of such corporation may elect such officers as are provided for by the by-laws. All except four of the directors of the corporation elected after the organization of the corporation is completed, and it is authorized to issue insurance policies, must be members of the corporation. All of the officers excepting the secretary, assistant secretary, assistant treasurer and the actuary, must be members of the board of directors.

9. No such insurance corporation other than a life insurance corporation shall expose itself to any loss on any one risk or hazard in an amount exceeding ten per centum of its actual net and contingent assets (said contingent assets being the aggregate amount of the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds), provided, however, that in any event such corporation may assume liability on any one risk or hazard for the amount of five thousand dollars. No portion of any risk or hazard which shall have been reinsured in a corporation authorized to transact such insurance business in this state shall be included in determining the limitation of risk prescribed by this section.

10. A mutual corporation organized under this section may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to provide the securities to be deposited with the superintendent as aforesaid, or to enable it to comply with any requirement of the law, upon an agreement which shall first have been submitted to and approved by the superintendent of insurance that the same with interest at a rate not exceeding eight per centum per annum shall be repaid only out of the surplus earnings or profits of such corporation with the approval of the superintendent of insurance whenever, in his judgment, the financial condition of the company warrants it, except that such approval shall not be withheld if after such repayment shall be made such corporation shall have and be in possession of a surplus equal to ten per centum or more of its gross annual premiums. Any such sum or sums so advanced shall not form a part of the legal liabilities of the corporation but until repaid all statements published by such corporation or filed with the superintendent of insurance shall show the amount thereof then remaining unpaid.

11. If such corporation is not possessed of cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, the board of directors shall make an assessment in the manner specified in the by-laws for the amount needed to pay such losses and expenses upon members liable to assessment therefor in proportion to their several liabilities. Every member shall be liable to pay and shall pay his proportionate part of any assessment which may be laid by the corporation in accordance with law and his contract on account of losses and expenses incurred while he was a member if he is notified of such assessment within two years after the expiration or cancellation of his policy. All proposed assessments shall be filed in the insurance department and shall not take effect until approved by the superintendent of insurance after such investigation as he may deem necessary. The board of directors may from time to time fix and determine the amount to be declared pro rata and paid as a dividend or as a return of unabsorbed premiums upon expiring policies, after retaining such sums as they may deem necessary to meet outstanding policy and other obligations and the maintenance of reserves or surplus as herein provided. Such dividend shall not take effect or be distributed until approved by the superintendent of insurance after such investigation as he may deem necessary.

12. A mutual corporation organized under the laws of another state and having by its charter power to transact the insurance business specified either in subdivision one, two, five, six, seven, eight, ten or eleven of section seventy of this chapter, and whose policyholders have a contingent liability for assessment at least equal to that of policyholders of like domestic corporations, may be licensed to transact such kinds of business in this state. Such corporations shall be required to conform to the rules and regulations of the insurance department of this state and to maintain the same reserves and make the same deposits for the protection of

policyholders and creditors as are required of domestic mutual corporations authorized to transact the same kinds of insurance business. Such a foreign corporation shall not be licensed to transact in this state any one of the kinds of business specified either in subdivision one, two, five, six, seven, eight, ten or eleven of this section unless it has a surplus over all liabilities including unearned premium and loss reserves of not less than one hundred thousand dollars and is in receipt of gross annual premiums of three hundred thousand dollars; but a corporation which by its charter is authorized and desires to be licensed in this state to transact any of the additional kinds of insurance specified in any of the above enumerated subdivisions of section seventy of this chapter shall for each additional line have and maintain in addition to the surplus and annual gross premium income above required a surplus of fifty thousand dollars and be in receipt annually of additional gross premiums of one hundred thousand dollars.

13. Any such foreign corporation other than a corporation authorized to transact the insurance business specified in subdivisions one and two of section seventy of this chapter may also issue policies guaranteeing the fidelity of persons holding places of public or private trust during such time as such company shall have a cash or invested surplus of not less than one million dollars if it is authorized by its charter to transact such business.

§ 4. This act shall take effect immediately.

CHAPTER 660

AN ACT to amend the insurance law, in relation to rate-making associations and the regulation of rates.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one hundred and forty-one of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," as added by chapter four hundred and sixty of the laws of nineteen hundred and eleven and last amended by chapter twenty-six of the laws of nineteen hundred and thirteen,² is hereby amended to read as follows:

§ 141. **Rate making associations.** The term "rate" as used in this section and sections one hundred and forty-one-a and one hundred and forty-one-b shall include all of the elements and factors forming the basis for computing the consideration for insurance. Every corporation, association, board or bureau which

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1912, ch. 175.

L. 1909, ch. 33, § 141, as added by L. 1911, ch. 460, and amended by L. 1912, ch. 26, amended.

now exists or hereafter may be formed, and every person who maintains or hereafter may maintain a bureau or office, for the purpose of suggesting, approving or making rates to be used by more than one underwriter for insurances, including surety bonds, on property or risks of any kind located in this state, hereinafter called a "rating organization," shall file with the superintendent of insurance a copy of the articles of agreement, association or incorporation and the by-laws and all amendments thereto under which such rating organization operates or proposes to operate, together with his or its business address and a list of the members or insurance corporations represented or to be represented by it, as well as such other information concerning such rating organization and its operations as may be required by the superintendent.

Every such rating organization, whether before or after the filing of the information specified in the last preceding paragraph, shall be subject to the visitation, supervision and examination of the superintendent of insurance, who shall cause to be made an examination thereof as often as he deems it expedient and at least once in three years. For such purpose he may appoint as examiners one or more competent persons, and upon such examination, he, his deputy or any examiner authorized by him shall have all the powers given to the superintendent, his deputy or any examiner authorized by him by section thirty-nine of this chapter, including the power to examine under oath the officers or agents and all persons deemed to have material information regarding the business of or manner of operation by every such rating organization. The superintendent shall make public the results of such examination and shall report to the legislature in his annual report on the methods of such rating organization and the manner of its operation.

Each such rating organization and any person, association or corporation authorized to transact the business of insurance within this state, shall file with the superintendent of insurance whenever he may call therefor any and every rate manual, schedule of rates, rating plan and other information concerning such rates as may be suggested, approved or made by any such rating organization or by or for any such person, association or corporation authorized to transact the business of insurance within this state for the purposes specified in this section.

No such rating organization shall fix or make any rate or schedule of rates which is to or may apply to any risk within this state, on the condition that the whole amount of insurance on any such risk or any specified part thereof shall be placed at such rates, or with the members of or subscribers to such rating organization; nor shall any such rating organization or any person, association or corporation authorized to transact the business of insurance within this state, fix or make any rate or schedule of rates or charge a rate which discriminates unfairly between risks within this state of essentially the same hazards or, if such rate be a fire insurance rate, which discriminates unfairly between

risks in the application of like charges or credits or which discriminates unfairly between risks of essentially the same hazards and having substantially the same degree of protection against fire. Whenever it is made to appear to the satisfaction of the superintendent of insurance that such discrimination exists, he may, after a full hearing either before himself or before any salaried employee of the insurance department whose report he may adopt, order such discrimination removed; and all such persons, corporations, associations or rating organizations affected thereby shall immediately comply therewith; nor shall such persons, corporations, associations or rating organizations remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it is made to appear to the satisfaction of the superintendent of insurance that such increase is justifiable.

The findings, determinations and orders of the superintendent of insurance shall be subject to review on the merits by certiorari order in the supreme and appellate courts of this state. In the event of final determination against any insurer, any overcharge during the pendency of such proceedings, shall be refunded with interest upon demand to the persons entitled thereto.

Such rating organization or any other person, corporation, association or bureau shall not charge any licensing, registration, certification or membership fee to brokers who shall have been or hereafter may be licensed or authorized as such pursuant to the provisions of this chapter; nor shall any such rating organization or any other association or bureau refuse to do business with or prohibit or prevent the payment of commissions to any person who may be licensed or authorized as an insurance broker, pursuant to the provisions of this chapter, except for the reason that such a broker will not agree to adhere to the reasonable rules of such rating organization.

Every such rating organization shall keep a careful record of its proceedings and shall furnish upon demand to any person upon whose property or risk a rate has been made, or to his authorized agent, full information as to such rate, and, if such property or risk be rated by a schedule, a copy of such schedule; it shall also provide such means as may be approved by the superintendent of insurance whereby any person or persons affected by such rate or rates may be heard, either in person or by agent, before the governing or rating committee or other proper executive of such rating organization on an application for a change in such rate or rates.

No rating organization shall fix or promulgate a rate which does not accord with its established rules, classifications and schedules, nor adopt any rules, the effect of which would be to prohibit or regulate the payment of dividends by mutual or co-operative insurance corporations. No insurance agent, broker, corporation or association, shall charge a rate or receive a premium which deviates from the rate fixed or filed for and the rules applicable to such risk, but nothing herein shall prevent

any insurer fixing or charging for any policy a reasonable minimum premium in accordance with the established rules of the rating organization, nor prohibit the making and performance of any contract for the installation of automatic sprinklers or other appliances for reducing the risk by fire on any property. Any person, association, corporation or rating organization wilfully violating any of the provisions of this section shall, in addition to any other penalty fixed therefor by statute, forfeit to the people of the state of New York not less than twenty-five dollars nor more than one thousand dollars for each such offense.

This section shall not apply to any contract of life insurance, nor to any contract of insurance upon or in connection with marine or transportation risks or hazards other than contracts for automobile insurance, nor to contracts of insurance upon property or risks located without this state, nor to contracts made by persons, partnerships, associations or corporations authorized to do business under articles five, six and seven of this chapter, nor to contracts made by assessment corporations authorized to do business under article nine of this chapter, nor to contracts made by advance premium corporations authorized to do business under article nine of this chapter and transacting business substantially confined to farm insurance, but it shall apply to all other kinds of insurance contracts issued by corporations authorized to transact business under any article of this chapter.

§ 2. Said chapter is hereby further amended by inserting § 141a therein, following section one hundred and forty-one thereof, a new section, to be section one hundred and forty-one-a, to read as follows: § 141a
added.

§ 141-a. **Regulation of rates for fire risks.** Every corporation, association, board or bureau which now exists or hereafter may be formed, and every person who maintains or hereafter maintains a bureau or office for the purpose of suggesting, approving or making rates for fire insurance upon risks within this state hereinafter called a "rating organization" shall admit to membership or shall furnish its service without discrimination to any person, association or corporation authorized to transact the business of fire insurance within this state, applying therefor. No such person, association or corporation shall be a member of, or adopt as a standard the rates of more than one rating organization for the purpose of rating the same class of risks for the same hazards. The expense of maintaining such rating organization shall be paid directly by the members and by such associations, corporations and subscribers in accordance with the reasonable rules of the rating organization.

The schedules, rules and methods employed in computing the rates charged for fire insurance shall be reasonable. Every such rating organization shall apply minimum class rates, formally adopted, to all risks within this state rated by such organization for fire insurance, or after an inspection of a risk, fix and

promulgate specific rates therefor which rates shall be based upon schedules formally adopted by such rating organization for the various classes of risks rated by it and filed with the superintendent of insurance, except where the class of risks or the local conditions may in the opinion of the superintendent of insurance justify flat or non-schedule ratings. Every such rating organization shall make an inspection of every such risk which is separately or specifically rated and shall make a written survey thereof which shall be filed as a permanent record in the office of such organization.

Every person, association or corporation authorized to transact the business of fire insurance within this state shall comply with the rates and the rules affecting such rates and charges of the rating organization in which it has membership or whose rates it adopts as its standard, but any such person, association or corporation upon thirty days notice of its intention so to do filed with the superintendent of insurance and with such rating organization may, for the ensuing year, subject to the approval of the superintendent of insurance, charge higher or lower rates than those fixed by such rating organization, in which event it shall for such ensuing year make a uniform percentage addition to the rates fixed by such rating organization or a uniform percentage deduction therefrom upon all classes of risks written by it and rated by such rating organization, and failure to do so shall in each and every case constitute a separate misdemeanor subject to the penalties provided in section one hundred and forty-one of this chapter.

No person, association or corporation authorized to transact the business of fire insurance within this state shall be a member or subscriber of any rating organization referred to in this section or in section one hundred and forty-one, nor shall it contribute to or financially aid any such rating organization which shall fail to comply with the provisions of this section and section one hundred and forty-one.

Every person, association or corporation transacting a fire insurance business in this state shall annually on or before the first day of July in each calendar year file with the rating organization of which it is a member or from which it receives its rates, or with any other common agency approved by the superintendent of insurance, a classification schedule of premium writings and losses incurred on risks in this state during the preceding calendar year; and such classification schedule shall be in accordance with the classification approved by the superintendent of insurance; and in addition to such reports the superintendent of insurance may require such person, association or corporation to file such classification schedules covering a number of years not exceeding five years, prior to the first day of January, nineteen hundred and twenty-three.

It shall be the duty of the superintendent of insurance after due notice and a hearing before him to order an adjustment of the rates on any fire insurance risk or class of risks whenever the

profit derived from such rate for a period of time not less than five years immediately preceding such adjustment is excessive, inadequate, unjust or unreasonable. In determining the question of reasonableness of rates the superintendent of insurance shall give consideration to the conflagration hazard both within and without this state.

The findings, determinations and orders of the superintendent of insurance shall be subject to review on the merits by certiorari order in the supreme and appellate courts of this state. In the event of final determination against any insurer, any overcharge during the pendency of such proceedings shall be refunded with interest on demand to the persons entitled thereto.

This section shall not apply to contracts of insurance upon or in connection with marine or transportation risks or hazards, including contracts for automobile insurance, nor to contracts made by assessment corporations authorized to do business under article nine of this chapter, nor to contracts made by advance premium corporations authorized to do business under article nine of this chapter and transacting business substantially confined to farm insurance, nor to contracts made by companies or associations whose business is confined chiefly to the insurance of sprinklered risks and which are conducted solely for the benefit and protection of their members and which pay no commissions or brokerages for the acquirement of their business.

Any wilful violation of the provisions of this section shall be subject to the penalties provided in section one hundred and forty-one of this chapter.

§ 3. Said chapter is hereby amended by inserting therein, following section one hundred and forty-one-a thereof, a new section to be section one hundred and forty-one-b, to read as follows: § 141b
added.

§ 141-b. **Regulation of other insurance rates; exceptions.** Every corporation, association or bureau which now exists or hereafter may be formed, and every person who maintains or hereafter maintains a bureau or office for the purpose of suggesting, approving or making rates for insurance, other than specifically excepted herein, upon risks within this state hereinafter called a "rating organization" shall furnish its service without discrimination to any person, association or corporation authorized to transact the business of insurance within this state applying therefor. No such person, association or corporation shall be a member of, or adopt as a standard the rates of, more than one rating organization for the purpose of rating the same class of risks for the same hazards. The expense of maintaining such rating organization shall be paid directly by the members and by such associations, corporations and subscribers in accordance with the reasonable rules of the rating organization.

The schedules, rules and methods employed in computing the rates charged for insurance shall be reasonable. Every such rating organization shall fix basis classification rates formally adopted for all risks within this state rated by such organization.

Any departure from such basis classification rates shall be in accordance with schedules and rules formally adopted by such rating organization and filed with the superintendent of insurance.

Every person, association or corporation authorized to transact the business of insurance within this state shall comply with the rates and the rules affecting such rates of the rating organization in which it has membership or whose rates it adopts as its standard.

No person, association or corporation authorized to transact the business of insurance within this state shall be a member or subscriber of, nor shall it contribute to or financially aid, any rating organization which shall fail to comply with the provisions of this section and section one hundred and forty-one.

Every person, association or corporation transacting the business of insurance in this state shall annually on or before the first day of July of each calendar year, file with the rating organization of which it is a member or from which it receives its rates, or with any other rating agency approved by the superintendent of insurance, classification schedules of premium writings and losses incurred or paid in this state, which classification schedules shall be in accordance with the requirements of the superintendent of insurance.

It shall be the duty of the superintendent of insurance after due notice and opportunity to be heard before him, to order an adjustment of the rates on any class of risks whenever it shall be found by him that the rates will produce an excessive, inadequate or unreasonable result.

The determinations and orders of the superintendent of insurance shall be subject to review on the merits by certiorari of insurance in the supreme and appellate courts of this state. In the event of a determination against any insurer, any overcharge during the pendency of such proceedings shall be refunded with interest to the persons entitled thereto.

The provisions of this chapter shall not apply to any contract of life insurance; nor to contracts for health and accident insurance; nor to contracts of insurance against fire or upon or in connection with transportation risks or hazards other than contracts of insurance upon automobiles, airplanes, seaplanes, dirigibles or balloons; nor to contracts of insurance upon property located outside this state; nor to contracts made by persons, partnerships, associations authorized to do business under articles five, six, seven and eight of this chapter; but it shall apply to all other contracts of insurance mentioned in any article of this chapter.

Any violation of the provisions of this section shall be subject to the penalties provided in section one hundred and forty-one of this chapter.

Sections one hundred and forty-four, one hundred and forty-five, one hundred and forty-six, one hundred and forty-seven, one hundred and forty-eight of said chapter are hereby

§ 5. For the purpose of carrying the provisions of this act into effect the following appropriations, effective July first, nineteen hundred and twenty-two, are hereby made: Appropriation.

Personal service

Statistician or examiner, 2 at \$4,000..... \$8,000 00

Assistant examiner, 4 at \$2,500..... 10,000 00

Maintenance and operation

Rent 4,500 00

The following appropriations, effective immediately, are also hereby made:

Maintenance and operation

Rent \$750 00

Equipment, materials and supplies 500 00

§ 6. Except as provided in section five, this act shall take effect immediately.

CHAPTER 661

AN ACT to amend the Greater New York charter, in relation to subcontracts in cases where the principal contractor abandons work under a contract.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and nineteen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as last amended by chapter five hundred and fifty-four of the laws of nineteen hundred and ten,¹ is hereby amended to read as follows: L. 1901,
ch. 406,
§ 419, as
amended by
L. 1910,
ch. 554,
amended.

CONTRACTS FOR WORK OR SUPPLIES.

§ 419. All contracts to be made or let for work to be done or supplies to be furnished, except as in this act otherwise provided, and all sales of personal property in the custody of the several borough presidents, departments or bureaus shall be made by the appropriate borough presidents or heads of departments under such regulations as shall be established by ordinance or resolution of the board of aldermen. Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the city of New York, and the several parts of the said work shall, together, involve the expenditure of more than one thousand dollars, the same shall be by contract, under such regulations concerning it as shall be established by ordinance or resolution of the board of aldermen,

¹ Previously amended by L. 1906, ch. 598.

excepting such works now in progress as are authorized by law or ordinance to be done otherwise than by contract, and unless otherwise ordered by a vote of three-fourths of the members elected to the board of aldermen; and all contracts shall be entered into by the appropriate borough president, and heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notices, duly advertised in the City Record, and the corporation newspapers, and said notice to be published at least ten days; if a borough president or the head of a department shall not deem it for the interest of the city to reject all bids, he shall, without the consent or approval of any other department or officer of the city government, award the contract to the lowest bidder, unless the board of estimate and apportionment by a three-quarter vote of the whole board, shall determine that it is for the public interest that a bid other than the lowest should be accepted; the terms of such contract shall be settled by the corporation counsel as an act of preliminary specification to the bid or proposal.

In any contract for work or supplies made hereunder, there may be inserted, in the discretion of the borough president or head of department making such contract, a provision that additional work may be done or supplies furnished for the purpose of completing such contract, at an expense not exceeding five per centum of the amount of such contract, if such additional work or supplies shall be ordered by such borough president or head of department.

The bidder whose bid is accepted shall give security for the faithful performance of his contract in the manner prescribed and required by ordinance; and the adequacy and sufficiency of this security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids or proposals shall be publicly opened by the officer or officers advertising for the same, and in the presence of the comptroller, but the opening of the bids shall not be postponed if the comptroller shall, after due notice, fail to attend; if the bidder whose bid has been accepted shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to his bid or proposal, or if he accepts but does not execute the contract and give the proper security, it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the appropriate borough president or the head of the appropriate department may, if the best interests of the city be thereby served, and subject to approval by the board of estimate and apportionment, adopt on behalf of the city all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption, if made; and the appropriate borough president or the head of the appropriate depart-

¹ Remainder of sentence formerly read: "it shall be readvertised and relet by the appropriate borough president or the head of the appropriate department in the manner in this section provided."

ment shall in the manner provided in this section readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontracts so adopted. No bid shall be accepted from, or contract awarded to, any person who is in arrears to the city of New York upon debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to the city. Every contract when made and entered into, as before provided for, shall be executed in duplicate, and shall be filed in the department of finance; together with a copy of the resolution or ordinance of the board of aldermen and the local board, and together with the approval of the board of estimate and apportionment wherever the same is required by the provisions of this act, or copies of both, as the case may be, authorizing said work; such copy shall be so filed within five days after the contract shall have been duly executed by the contractor. All warrants upon vouchers duly audited and approved, for payment of amounts due under contracts, shall, by number or other description, refer to the voucher, the fund and the contract upon which the payment is to be made, and all checks drawn by the chamberlain on warrants duly approved and executed pursuant to law, as payments on contracts, may be mailed to the contractor at the address furnished by him, or delivered to him or his authorized representative, and when so mailed or delivered, the indorsement by the contractor upon a check attached to such a warrant, which has been paid by the bank or trust company upon which the same has been drawn, shall be considered as a receipt of the comptroller for the amount of said check so paid on account of said contract.

No expenditure for work or supplies involving an amount for which no contract is required shall be made, except the necessity therefor be certified to by the appropriate borough president or the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

§ 2. This act shall take effect immediately.

CHAPTER 662

AN ACT to repeal sections one hundred and twenty-five and one hundred and fifty-nine of the insurance law, relating to conversion of a mutual fire insurance company into a stock fire insurance company.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and twenty-five and one hundred and fifty-nine of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," are hereby repealed.

L. 1909,
ch. 22,
§§ 125, 159
repealed.

§ 68 added. § 2. Chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended by adding a new section following section sixty-seven, in article one of such chapter, to be section sixty-eight, to read as follows:

§ 68. Conversion of mutual insurance corporation into a stock insurance corporation. No mutual insurance corporation shall be converted into a stock insurance corporation.

§ 3. This act shall take effect immediately.

CHAPTER 663

AN ACT extending the time of application of certain acts of the years nineteen hundred and twenty and nineteen hundred and twenty-one, relating to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in certain cities, and to summary proceedings to recover the possession of real property in certain cities.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Application of L. 1920, ch. 136; L. 1920, ch. 139; civil practice act, §§ 1011a, 1410, subds. 1a, 2a, extended to Feb. 15, 1924.

Section 1. The public emergency, which existed at the time of the enactment of the statutes below enumerated, having continued, in the judgment of the legislature, to the present time and still existing, chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class," as amended by chapter nine hundred and forty-four of the laws of nineteen hundred and twenty and chapter four hundred and thirty-four of the laws of nineteen hundred and twenty-one; chapter one hundred and thirty-seven of the laws of nineteen hundred and twenty, entitled "An act in relation to summary proceedings to recover the possession of real property in cities of the first class or in cities in a county adjoining a city of the first class during the existing emergency," as amended by chapter nine hundred and forty-eight of the laws of nineteen hundred and twenty; section ten hundred and eleven-a of the civil practice act, as added by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one and amended by chapter three hundred and sixty-seven of the laws of nineteen hundred and twenty-one; subdivision one-a of section fourteen hundred and ten of the civil practice act, such section having been added by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one and subdivision two-a of section fourteen hundred and ten of the civil practice act, such section having been added by chapter one

hundred and ninety-nine of the laws of nineteen hundred and twenty-one and such subdivision having been amended by chapter three hundred and seventy-one of the laws of nineteen hundred and twenty-one shall, notwithstanding any provisions in any such chapters, sections or subdivisions, remain and be in full force and effect until the fifteenth day of February, nineteen hundred and twenty-four.

§ 2. This act shall take effect immediately.

CHAPTER 664

AN ACT to amend chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class or in cities in a county adjoining a city of the first class," generally.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class or in cities in a county adjoining a city of the first class," as last amended by chapter four hundred and thirty-four of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

§ 1. Unjust, unreasonable and oppressive agreements for the payment of rent having been and being now exacted by landlords from tenants under stress of prevailing conditions whereby the freedom of contract has been impaired and congested housing conditions resulting therefrom have seriously affected and endangered the public welfare, health and morals in certain cities of the state, and a public emergency existing in the judgment of the legislature by reason thereof, it shall be a defense to an action for rent accruing under an agreement for premises in a city of the first class or in a city in a county adjoining a city of the first class occupied for dwelling purposes that such rent is unjust and unreasonable and that the agreement under which the same is sought to be recovered is oppressive. If it appear that the defendant pursuant to the terms of a written or oral agreement for a term of one year or more has paid after the commencement of the term and after April thirtieth, nineteen hundred and twenty-one, three monthly instalments of rent in successive months, which accrued under such agreement, such defense shall

L. 1920,
ch. 136,
§ 1, as
amended by
L. 1921,
ch. 424,
amended.

Unreason-
able rent
and oppres-
sive agree-
ment a
defense to
to action
for rent.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1920, ch. 944.

Limita-
tions.

not be allowed; but the defendant may plead such defense in relation to any rent or rental value claimed for a period within three months after the expiration of such term. If it appear that the defendant is a monthly tenant or a tenant from month to month and has paid three equal monthly payments of rent in successive months. Such defense shall not be allowed after this section as amended takes effect against a claim for rent or rental value not exceeding the rate so paid and accruing within nine months after such third payment; but the defendant may plead such defense in relation to rent or rental value claimed for a period within three months after the expiration of such nine months.

§§ 1a, 4a
added.

§ 2. Such act is hereby amended by inserting therein two new sections to be sections one-a and four-a, to read respectively as follows:

Pleading.

§ 1-a. In an action mentioned in the preceding section, it shall be necessary for the plaintiff to allege and prove that the amount demanded in the complaint is no greater than the rent or rental value paid by the defendant during the month preceding that which is the basis of the action or, if greater, that at least thirty days' notice of such increase in writing had been given to the defendant before such amount had been so increased.

Value of
real
property.

§ 4-a. For the purpose of determining the fair and reasonable rent or rental value, the value of the real property, of which the premises in question are the whole or a part, shall be presumed to be the assessed valuation thereof for the year in which the first instalment of rent or rental value for which the action is brought accrued.

§§ 6, 11,
12, as
amended by
L. 1921,
ch. 434,
amended.

§ 3. Sections six, eleven and twelve of such act, as last amended by chapter four hundred and thirty-four of the laws of nineteen hundred and twenty-one,^{*} are hereby amended to read, respectively as follows:

Deposit by
defendant.

§ 6. If in any action for rent or rental value, the issue of fairness and reasonableness of the amount demanded in the complaint be raised by the defendant, he must at the time of answering deposit with the clerk such sum as equals the rent or rental value of the premises in arrears computed at the monthly rate of the rent last paid or reserved as the monthly rent in the agreement under which he obtained possession of the premises. If the defendant fail to make such deposit, the court shall strike out the denial or defense raising such issue. Where the defendant deposits a sum in accordance with the foregoing provisions of this section, which is less than the amount demanded in the complaint, the court, on motion of the plaintiff made ex parte and on affidavit stating the facts, shall order the clerk to pay to the plaintiff the amount so deposited, and thereafter during the pendency of the action the defendant, on demand, shall pay a like sum monthly directly to the plaintiff, on the first day of each monthly rental period.

Payments
to plaintiff.

^{*} Previously amended by L. 1920, ch. 944.

Where the defendant deposits a sum equal to the amount demanded in the complaint the plaintiff on five days' notice to the defendant may apply to the court for an order permitting him to withdraw such deposit or such part thereof as the court may direct pending the final determination of the action and thereafter during the pendency of the action the defendant on demand shall pay an amount to be fixed by the court in said order on the first day of each monthly rental period to the plaintiff and shall deposit with the clerk the difference between such monthly payment and the amount theretofore deposited. Money heretofore deposited in court by a defendant in such an action shall be payable to the plaintiff in accordance with the provisions of this section.

No payment need be made by a defendant to a plaintiff unless such plaintiff shall at the time of the demand tender a receipt for the amount demanded. Any such payment and the receipt regardless of its terms, stipulations or qualifications, shall be without prejudice to the rights of either party to the action. If the defendant refuses to make any such additional payment to the plaintiff during the pendency of the action the court on motion of the plaintiff may strike out the denial or defense raising the issue of fairness and reasonableness of the amount demanded in the complaint. All moneys remaining in the hands of the clerk to the credit of the action shall be applied to the satisfaction of the judgment rendered or otherwise disposed of as justice requires. Where a judgment is rendered for the plaintiff it shall contain a provision that if the same be not fully satisfied from the deposit or otherwise within five days after the entry, and service on the defendant of a copy thereof, the plaintiff shall be entitled to the premises described in the complaint and a direction that a warrant shall issue commanding the sheriff, marshal or other officer charged by law with the duty of executing judgments to remove all persons therefrom. The plaintiff shall be entitled to costs only in the event that he recover the full amount demanded in the complaint, and if, in an action for increased rent, the plaintiff recover no more than the amount of rent last paid the defendant shall be entitled to costs. Costs.

§ 11. Every such action shall be brought in the county in which such premises are situated, if the action be brought in the supreme or county court; or in the municipal court district in which such premises are situated, if the action be brought in the municipal court of a city. If not so brought the action shall be dismissed with costs to the defendant. Venue of
action.

§ 12. This act as hereby amended shall not apply to a new building in the course of construction on September twenty-seventh, nineteen hundred and twenty, or commenced thereafter and shall be in force until February fifteenth, nineteen hundred and twenty-four. Not ap-
plicable to
new build-
ings; in
force until
Feb. 15,
1924.

§ 4. This act shall take effect immediately.

promulgate specific rates therefor which rates shall be based upon schedules formally adopted by such rating organization for the various classes of risks rated by it and filed with the superintendent of insurance, except where the class of risks or the local conditions may in the opinion of the superintendent of insurance justify flat or non-schedule ratings. Every such rating organization shall make an inspection of every such risk which is separately or specifically rated and shall make a written survey thereof which shall be filed as a permanent record in the office of such organization.

Every person, association or corporation authorized to transact the business of fire insurance within this state shall comply with the rates and the rules affecting such rates and charges of the rating organization in which it has membership or whose rates it adopts as its standard, but any such person, association or corporation upon thirty days notice of its intention so to do filed with the superintendent of insurance and with such rating organization may, for the ensuing year, subject to the approval of the superintendent of insurance, charge higher or lower rates than those fixed by such rating organization, in which event it shall for such ensuing year make a uniform percentage addition to the rates fixed by such rating organization or a uniform percentage deduction therefrom upon all classes of risks written by it and rated by such rating organization, and failure to do so shall in each and every case constitute a separate misdemeanor subject to the penalties provided in section one hundred and forty-one of this chapter.

No person, association or corporation authorized to transact the business of fire insurance within this state shall be a member or subscriber of any rating organization referred to in this section or in section one hundred and forty-one, nor shall it contribute to or financially aid any such rating organization which shall fail to comply with the provisions of this section and section one hundred and forty-one.

Every person, association or corporation transacting a fire insurance business in this state shall annually on or before the first day of July in each calendar year file with the rating organization of which it is a member or from which it receives its rates, or with any other common agency approved by the superintendent of insurance, a classification schedule of premium writings and losses incurred on risks in this state during the preceding calendar year; and such classification schedule shall be in accordance with the classification approved by the superintendent of insurance; and in addition to such reports the superintendent of insurance may require such person, association or corporation to file such classification schedules covering a number of years not exceeding five years, prior to the first day of January, nineteen hundred and twenty-three.

It shall be the duty of the superintendent of insurance after due notice and a hearing before him to order an adjustment of the rates on any fire insurance risk or class of risks whenever the

profit derived from such rate for a period of time not less than five years immediately preceding such adjustment is excessive, inadequate, unjust or unreasonable. In determining the question of reasonableness of rates the superintendent of insurance shall give consideration to the conflagration hazard both within and without this state.

The findings, determinations and orders of the superintendent of insurance shall be subject to review on the merits by certiorari order in the supreme and appellate courts of this state. In the event of final determination against any insurer, any overcharge during the pendency of such proceedings shall be refunded with interest on demand to the persons entitled thereto.

This section shall not apply to contracts of insurance upon or in connection with marine or transportation risks or hazards, including contracts for automobile insurance, nor to contracts made by assessment corporations authorized to do business under article nine of this chapter, nor to contracts made by advance premium corporations authorized to do business under article nine of this chapter and transacting business substantially confined to farm insurance, nor to contracts made by companies or associations whose business is confined chiefly to the insurance of sprinklered risks and which are conducted solely for the benefit and protection of their members and which pay no commissions or brokerages for the acquirement of their business.

Any wilful violation of the provisions of this section shall be subject to the penalties provided in section one hundred and forty-one of this chapter.

§ 3. Said chapter is hereby amended by inserting therein, following section one hundred and forty-one-a thereof, a new section to be section one hundred and forty-one-b, to read as follows: § 141b
added.

§ 141-b. **Regulation of other insurance rates; exceptions.** Every corporation, association or bureau which now exists or hereafter may be formed, and every person who maintains or hereafter maintains a bureau or office for the purpose of suggesting, approving or making rates for insurance, other than specifically excepted herein, upon risks within this state hereinafter called a "rating organization" shall furnish its service without discrimination to any person, association or corporation authorized to transact the business of insurance within this state applying therefor. No such person, association or corporation shall be a member of, or adopt as a standard the rates of, more than one rating organization for the purpose of rating the same class of risks for the same hazards. The expense of maintaining such rating organization shall be paid directly by the members and by such associations, corporations and subscribers in accordance with the reasonable rules of the rating organization.

The schedules, rules and methods employed in computing the rates charged for insurance shall be reasonable. Every such rating organization shall fix basis classification rates formally adopted for all risks within this state rated by such organization.

Any departure from such basis classification rates shall be in accordance with schedules and rules formally adopted by such rating organization and filed with the superintendent of insurance.

Every person, association or corporation authorized to transact the business of insurance within this state shall comply with the rates and the rules affecting such rates of the rating organization in which it has membership or whose rates it adopts as its standard.

No person, association or corporation authorized to transact the business of insurance within this state shall be a member or subscriber of, nor shall it contribute to or financially aid, any rating organization which shall fail to comply with the provisions of this section and section one hundred and forty-one.

Every person, association or corporation transacting the business of insurance in this state shall annually on or before the first day of July of each calendar year, file with the rating organization of which it is a member or from which it receives its rates, or with any other common agency approved by the superintendent of insurance, classification schedules of premium writings and losses incurred on risks in this state, which classification schedules shall be in accordance with the requirements of the superintendent of insurance.

It shall be the duty of the superintendent of insurance after due notice and a hearing before him, to order an adjustment of the rates on any risks or class of risks whenever it shall be found by him that such rates will produce an excessive, inadequate or unreasonable profit.

The findings, determinations and orders of the superintendent of insurance shall be subject to review on the merits by certiorari order in the supreme and appellate courts of this state. In the event of final determination against any insurer, any overcharge during the pendency of such proceedings shall be refunded with interest on demand to the persons entitled thereto.

This section shall not apply to any contract of life insurance; nor to contracts for health and accident insurance; nor to contracts of insurance against fire or upon or in connection with marine transportation risks or hazards other than contracts of insurance upon automobiles, airplanes, seaplanes, dirigibles or other aircraft; nor to contracts of insurance upon property located without this state; nor to contracts made by persons, partnerships or associations authorized to do business under articles five, six and seven of this chapter; but it shall apply to all other forms of insurance mentioned in any article of this chapter.

Any wilful violation of the provisions of this section shall be subject to the penalties provided in section one hundred and forty-one of this chapter.

§ 4. Sections one hundred and forty-four, one hundred and forty-five, one hundred and forty-six, one hundred and forty-seven and one hundred and forty-eight of said chapter are hereby repealed.

§ 5. For the purpose of carrying the provisions of this act into effect the following appropriations, effective July first, nineteen hundred and twenty-two, are hereby made: Appropriation.

Personal service

Statistician or examiner, 2 at \$4,000.....	\$8,000 00
Assistant examiner, 4 at \$2,500.....	10,000 00

Maintenance and operation

Rent	4,500 00
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The following appropriations, effective immediately, are also hereby made:

Maintenance and operation

Rent	\$750 00
Equipment, materials and supplies	500 00

§ 6. Except as provided in section five, this act shall take effect immediately.

CHAPTER 661

AN ACT to amend the Greater New York charter, in relation to subcontracts in cases where the principal contractor abandons work under a contract.

Accepted by the City.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and nineteen of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, as last amended by chapter five hundred and fifty-four of the laws of nineteen hundred and ten,¹ is hereby amended to read as follows:

L. 1901,
ch. 486,
§ 419, as
amended by
L. 1910,
ch. 554,
amended.

CONTRACTS FOR WORK OR SUPPLIES.

§ 419. All contracts to be made or let for work to be done or supplies to be furnished, except as in this act otherwise provided, and all sales of personal property in the custody of the several borough presidents, departments or bureaus shall be made by the appropriate borough presidents or heads of departments under such regulations as shall be established by ordinance or resolution of the board of aldermen. Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the city of New York, and the several parts of the said work shall, together, involve the expenditure of more than one thousand dollars, the same shall be by contract, under such regulations concerning it as shall be established by ordinance or resolution of the board of aldermen,

¹ Previously amended by L. 1906, ch. 598.

excepting such works now in progress as are authorized by law or ordinance to be done otherwise than by contract, and unless otherwise ordered by a vote of three-fourths of the members elected to the board of aldermen; and all contracts shall be entered into by the appropriate borough president, and heads of departments, and shall, except as herein otherwise provided, be founded on sealed bids or proposals, made in compliance with public notices, duly advertised in the City Record, and the corporation newspapers, and said notice to be published at least ten days; if a borough president or the head of a department shall not deem it for the interest of the city to reject all bids, he shall, without the consent or approval of any other department or officer of the city government, award the contract to the lowest bidder, unless the board of estimate and apportionment by a three-quarter vote of the whole board, shall determine that it is for the public interest that a bid other than the lowest should be accepted; the terms of such contract shall be settled by the corporation counsel as an act of preliminary specification to the bid or proposal.

In any contract for work or supplies made hereunder, there may be inserted, in the discretion of the borough president or head of department making such contract, a provision that additional work may be done or supplies furnished for the purpose of completing such contract, at an expense not exceeding five per centum of the amount of such contract, if such additional work or supplies shall be ordered by such borough president or head of department.

The bidder whose bid is accepted shall give security for the faithful performance of his contract in the manner prescribed and required by ordinance; and the adequacy and sufficiency of this security shall, in addition to the justification and acknowledgment, be approved by the comptroller. All bids or proposals shall be publicly opened by the officer or officers advertising for the same, and in the presence of the comptroller, but the opening of the bids shall not be postponed if the comptroller shall, after due notice, fail to attend; if the bidder whose bid has been accepted shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to his bid or proposal, or if he accepts but does not execute the contract and give the proper security, it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the appropriate borough president or the head of the appropriate department may, if the best interests of the city be thereby served, and subject to approval by the board of estimate and apportionment, adopt on behalf of the city all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption, if made; and the appropriate borough president or the head of the appropriate depart-

¹ Remainder of sentence formerly read: "it shall be readvertised and relet by the appropriate borough president or the head of the appropriate department in the manner in this section provided."

ment shall in the manner provided in this section readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontracts so adopted. No bid shall be accepted from, or contract awarded to, any person who is in arrears to the city of New York upon debt or contract, or who is a defaulter, as surety or otherwise, upon any obligation to the city. Every contract when made and entered into, as before provided for, shall be executed in duplicate, and shall be filed in the department of finance; together with a copy of the resolution or ordinance of the board of aldermen and the local board, and together with the approval of the board of estimate and apportionment wherever the same is required by the provisions of this act, or copies of both, as the case may be, authorizing said work; such copy shall be so filed within five days after the contract shall have been duly executed by the contractor. All warrants upon vouchers duly audited and approved, for payment of amounts due under contracts, shall, by number or other description, refer to the voucher, the fund and the contract upon which the payment is to be made, and all checks drawn by the chamberlain on warrants duly approved and executed pursuant to law, as payments on contracts, may be mailed to the contractor at the address furnished by him, or delivered to him or his authorized representative, and when so mailed or delivered, the indorsement by the contractor upon a check attached to such a warrant, which has been paid by the bank or trust company upon which the same has been drawn, shall be considered as a receipt of the comptroller for the amount of said check so paid on account of said contract.

No expenditure for work or supplies involving an amount for which no contract is required shall be made, except the necessity therefor be certified to by the appropriate borough president or the head of the appropriate department, and the expenditure has been duly authorized and appropriated.

§ 2. This act shall take effect immediately.

CHAPTER 662

AN ACT to repeal sections one hundred and twenty-five and one hundred and fifty-nine of the insurance law, relating to conversion of a mutual fire insurance company into a stock fire insurance company.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Sections one hundred and twenty-five and one hundred and fifty-nine of chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," are hereby repealed.

L. 1909,
ch. 33,
§§ 125, 159
repealed.

§ 68 added. § 2. Chapter thirty-three of the laws of nineteen hundred and nine, entitled "An act in relation to insurance corporations, constituting chapter twenty-eight of the consolidated laws," is hereby amended by adding a new section following section sixty-seven, in article one of such chapter, to be section sixty-eight, to read as follows:

§ 68. **Conversion of mutual insurance corporation into a stock insurance corporation.** No mutual insurance corporation shall be converted into a stock insurance corporation.

§ 3. This act shall take effect immediately.

CHAPTER 663

AN ACT extending the time of application of certain acts of the years nineteen hundred and twenty and nineteen hundred and twenty-one, relating to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in certain cities, and to summary proceedings to recover the possession of real property in certain cities.

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Application of L. 1920, ch. 136; L. 1920, ch. 139; civil practice act, §§ 1011a, 1410, subds. 1a, 2a, extended to Feb. 15, 1924.

Section 1. The public emergency, which existed at the time of the enactment of the statutes below enumerated, having continued, in the judgment of the legislature, to the present time and still existing, chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class," as amended by chapter nine hundred and forty-four of the laws of nineteen hundred and twenty and chapter four hundred and thirty-four of the laws of nineteen hundred and twenty-one; chapter one hundred and thirty-seven of the laws of nineteen hundred and twenty, entitled "An act in relation to summary proceedings to recover the possession of real property in cities of the first class or in cities in a county adjoining a city of the first class during the existing emergency," as amended by chapter nine hundred and forty-eight of the laws of nineteen hundred and twenty; section ten hundred and eleven-a of the civil practice act, as added by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one and amended by chapter three hundred and sixty-seven of the laws of nineteen hundred and twenty-one; subdivision one-a of section fourteen hundred and ten of the civil practice act, such section having been added by chapter one hundred and ninety-nine of the laws of nineteen hundred and twenty-one and subdivision two-a of section fourteen hundred and ten of the civil practice act, such section having been added by chapter one

hundred and ninety-nine of the laws of nineteen hundred and twenty-one and such subdivision having been amended by chapter three hundred and seventy-one of the laws of nineteen hundred and twenty-one shall, notwithstanding any provisions in any such chapters, sections or subdivisions, remain and be in full force and effect until the fifteenth day of February, nineteen hundred and twenty-four.

§ 2. This act shall take effect immediately.

CHAPTER 664

AN ACT to amend chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class or in cities in a county adjoining a city of the first class," generally.¹

Became a law April 13, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section one of chapter one hundred and thirty-six of the laws of nineteen hundred and twenty, entitled "An act in relation to defenses in actions based upon unjust, unreasonable and oppressive agreements for rent of premises occupied for dwelling purposes in cities of the first class or in cities in a county adjoining a city of the first class," as last amended by chapter four hundred and thirty-four of the laws of nineteen hundred and twenty-one,² is hereby amended to read as follows:

L. 1920,
ch. 136,
§ 1, as
amended by
L. 1921,
ch. 434,
amended.

§ 1. Unjust, unreasonable and oppressive agreements for the payment of rent having been and being now exacted by landlords from tenants under stress of prevailing conditions whereby the freedom of contract has been impaired and congested housing conditions resulting therefrom have seriously affected and endangered the public welfare, health and morals in certain cities of the state, and a public emergency existing in the judgment of the legislature by reason thereof, it shall be a defense to an action for rent accruing under an agreement for premises in a city of the first class or in a city in a county adjoining a city of the first class occupied for dwelling purposes that such rent is unjust and unreasonable and that the agreement under which the same is sought to be recovered is oppressive. If it appear that the defendant pursuant to the terms of a written or oral agreement for a term of one year or more has paid after the commencement of the term and after April thirtieth, nineteen hundred and twenty-one, three monthly instalments of rent in successive months, which accrued under such agreement, such defense shall

Unreason-
able rent
and oppres-
sive agree-
ment a
defense to
to action
for rent.

¹ The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

² Previously amended by L. 1920, ch. 944.

than four feet in the clear. And no window except windows of water-closet compartments, bath-rooms or halls shall open upon any offset or recess less than six feet in width.

§ 2. This act shall take effect immediately.

CHAPTER 669

AN ACT to amend the transportation corporations law, in relation to the definition of the term "municipal authorities."

Became a law April 14, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 5
added to
L. 1909,
ch. 219,
§ 61.

Section 1. Section sixty-one of chapter two hundred and nineteen of the laws of nineteen hundred and nine, entitled "An act in relation to transportation corporations, excepting railroads, constituting chapter sixty-three of the consolidated laws," is hereby amended by adding at the end a new subdivision, to be subdivision five, to read as follows:

5. The term "municipal authorities," as used in subdivisions one and two of this section, shall hereafter be deemed to be the common council or similar governing body of a city, the board of trustees of a village and the town board of a town. All consents in writing for the doing of acts mentioned in such subdivisions heretofore given in writing by the highway commissioners or town superintendent of highways or the town board of any town to any corporation organized under the provisions of this article shall be deemed to be the consents of the municipal authorities required by this section.

§ 2. This act shall take effect immediately.

CHAPTER 670

AN ACT to amend the public service commission law in relation to by-product gas.

Became a law April 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Subd. 15
added to
L. 1910,
ch. 480,
§ 66.

Section 1. Section sixty-six of chapter four hundred and eighty of the laws of nineteen hundred and ten, entitled "An act in relation to public service commissions, constituting chapter forty-eight of the consolidated laws," as amended, is hereby amended by adding thereto a new subdivision, to be subdivision fifteen, to read as follows:

15. Receive, and any gas corporation may at any time submit to the commission for its approval, one or more contracts proposed to be made by it for the purchase from the producer of by-product gas, to be used in its service to its consumers, in which said proposed contract the price of gas shall be based on the then market price of coal, and to vary therewith whenever the market price of coal shall vary to the extent of ten per centum for a period of not less than thirty days, and which said contract shall state the efficiency of said gas, and upon the approval of said contract by the commission, or said contract as the same may be amended, altered or changed, and upon the application of said gas corporation, the commission shall make an order fixing the rate or rates to be charged to consumers for the service of such gas, which said rate shall thereafter remain unchanged during the term of said contract in so far as said rate shall be based on the cost of gas to said corporation, except as such cost shall vary with the variations in the price of coal as in said contract provided. The commission shall have like powers and duties with reference to existing contracts made prior to January first, nineteen hundred and twenty-two, by a gas corporation for a supply of by-product gas where the price of gas varies as the price of coal varies. By-product, as used in this section, is defined to mean one of the several products obtained by treatment of coal by some process other than the customary distillation in retorts.

Contracts
for pur-
chase of
by-product
gas.

§ 2. This act shall take effect immediately.

CHAPTER 671

AN ACT to amend the penal law, in relation to billiard and pocket billiard rooms, formerly known as pool rooms.

Became a law April 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is hereby amended by inserting therein a new article, to be article thirty-one, to read as follows: Art. 31
added.

ARTICLE 31.

BILLIARD AND POCKET BILLIARD ROOMS.

Section 344. Billiard and pocket billiard rooms to be licensed; application of article.

345. License; how to be issued.

346. Disposition of fees and fines.

347. License certificate, posting, lost certificates.

348. Gambling, disorderliness, sale of liquor and habit forming drugs prohibited; admission of minors and hours of operating.*

* So in original. [Does not conform to section heading.]

- Section 349. Obstructions to view prohibited.
350. Certain persons not to be licensed or employed.
351. Penalties for violation of this article.
352. Restrictions as to signs and similar descriptive matter.
353. Duties of public officers in relation to complaints and prosecutions under this article.
354. Directory of billiard and pocket billiard rooms.
355. Saving clause.

§ 344. Billiard and pocket billiard rooms to be licensed; application of article. After September first, nineteen hundred and twenty-two, no public billiard or pocket billiard room or public place of any description in which billiards or pocket billiards are played or which includes any apparatus or paraphernalia for the playing of billiards or pocket billiards and which is conducted as a public place of business for profit shall be permitted in any town, village or city of the state unless a license therefor is granted annually to the proprietor as provided in this article. This article shall not apply to any city having a population of four hundred thousand or more.

§ 345. License; how to be issued. A person, firm, association or corporation desiring to conduct as a public place of business for profit a public billiard or pocket billiard room or public place described in section three hundred and forty-four shall apply to the state tax commission for a license so to do. The application shall be accompanied by a deposit with the state tax commission of the amount of fees for the license, which fees shall be five dollars for each billiard or pocket billiard table, for the license period of one year or fraction thereof. The license, if issued, shall be for one year from the first of September, or if issued after September first, for the period expiring on the ensuing thirty-first day of August. The state tax commission, for cause, in any case may refuse the license applied for. The state tax commission shall not issue a license to any person who or corporation which shall have been convicted of a second offense against any of the provisions of this article or to any association or copartnership of which a member or members shall have been so convicted, until at least one year after the revocation of such license by reason of such second conviction, nor to any person who has been convicted of a felony, nor to any association or copartnership of which any member has been so convicted of a felony, nor to any person who is not a citizen or who has not filed his declaration of intention to become a citizen, nor to any association or copartnership of which any member is not a citizen or who has not filed his declaration of intention to become a citizen. A license shall not be issued unless the applicant shall file with the state tax commission a bond to the people of the state of New York in the sum of five hundred dollars with a sufficient surety or sureties to be approved by such tax commission or with sufficient collateral security to be approved by such tax commis-

sion conditioned that there is no material false statement in the application for the license, that if the license be issued the applicant or applicants will not during the term of the license suffer or permit any gambling in the room or place in which the business so to be licensed is to be carried on or in any yard, booth, garden or other place appertaining thereto or connected therewith, or suffer or permit such premises to become disorderly, and will not violate any of the provisions of this article or of any act amendatory thereof or supplemental thereto, provided, however, that such bond shall not be forfeited for the first violation of any of the provisions of this article but shall be forfeited as hereinafter provided in section three hundred and fifty-one for the second conviction for such violation of any of the provisions of this article. Upon such forfeiture the amount of the bond shall then become due and payable to the people of the state of New York, which amount may be recovered in a civil action based upon such forfeiture. The surety or sureties upon such bond must be either a surety company duly licensed to do business in this state or else a natural person owning real estate in the state of New York to the value above all incumbrances of one thousand dollars, provided, however, that such natural person shall not have received or agreed to receive any consideration for acting as such surety, and further provided that such natural person shall not be at that time surety upon any other such bond required by this article. Such collateral security may consist of cash or liberty or victory United States bonds or any other stocks or bonds listed upon the New York Stock Exchange and being stocks and bonds of such character as are permitted by the laws of the state of New York now in force as an investment for trust funds. Application for any such license shall be upon forms to be prescribed by the state tax commission and setting forth such facts as may be necessary for the information of said commission. If the license of any licensee under this article shall be revoked, then such licensee shall not receive any license for a period of at least one year after the date of such revocation of such license.

§ 346. **Disposition of fees and fines.** Of the license fees collected by the state tax commission under the provisions of this article, one-half shall be paid into the state treasury as provided by section thirty-seven of the state finance law and one-half remitted by the state tax commission to the chief fiscal officer of the town, village or city in which the business for which fees are collected is to be carried on. Upon any conviction of a violation of this article and the imposition of a fine the magistrate, clerk or other officer to whom the fine is paid shall remit one-half thereof to the state treasurer and one-half to the chief fiscal officer of the city, town or village in which the violation occurred. The moneys collected upon any forfeited bond or bonds shall be remitted by the official charged with the enforcement of such forfeiture, one-half to the state treasurer, and one-half to the chief fiscal officer of the city, town or village in which the business for which the bond

was given was carried on. Moneys belonging to the state under the provisions of this section shall be part of the general fund. Moneys paid to any municipality may be applied to any lawful municipal purpose.

§ 347. **License certificate, posting, lost certificates.** Any license certificate granted by the state tax commission under the provisions of this article shall specify the name of the licensee, the place where the licensed business is to be carried on and the days on which the license shall begin and expire. The certificate shall be inclosed in a suitable wood and metal frame, having a clear glass face and a substantial wood or metal back, so that the whole of such certificate may be seen therein and shall be posted up and at all times displayed in a conspicuous place in the room or place where the licensed business is carried on so that all persons visiting such room or place may readily see the same. It shall be unlawful for any person to post such certificate or be permitted to post it upon premises other than those for which the certificate was issued or to knowingly deface or destroy any such certificate. Whenever a license certificate shall be lost or destroyed, without fault on the part of the holder or his agents or employees, a duplicate certificate in lieu thereof under the original application and bond may be issued by the state tax commission in their discretion and in accordance with such rules and regulations as they may prescribe.

§ 348. **Gambling, disorderliness, admission of minors and hours of operating, sale of liquor and habit forming drugs.** It shall be unlawful for a person, firm, association or corporation holding such license to:

1. Suffer or permit any dice to be thrown upon a wager of money or property or a prize or any raffle to be made or any game to be played with cards upon a wager of money or property or for a prize or any game of chance to be played or gambling in any manner, in the place designated by the license certificate in which the licensed business is to be carried on or in any yard, booth, garden or other place appertaining thereto or connected therewith; or to

2. Suffer or permit the licensed premises to become disorderly; or to

3. Suffer or permit any minor under the age of eighteen years to enter or remain in such billiard room or place unless accompanied by his or her parent or legally appointed guardian; or to

4. Keep such billiard room or place open or to operate the same after the hour of midnight and before seven o'clock in the morning; or to

5. Sell, barter, furnish or possess in such billiard room or place any intoxicating liquor, which phrase intoxicating liquor shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter and wine, and in addition thereto any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more of alcohol by volume,

which are fit for beverage purposes, provided that the foregoing definition shall not extend to dealcoholized wine, nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of one per centum of alcohol by volume; or to

6. Sell, barter, furnish or possess in such billiard room or place, any habit forming drugs or any appliances for administering the same.

§ 349. **Obstructions to view prohibited.** Where there is a window or windows in such billiard or pocket billiard room, at least the lower one-third part of such window or windows shall be of clear glass and shall not be screened or curtained at any time of the day or of the night, nor shall there be any article or thing in the rear of such window or windows so as to prevent a full, clear and unobstructed view of such billiard or pocket billiard room. There shall be no inclosed box or stall or private room, and no partitions forming such boxes or stalls or private rooms shall be permitted. There shall be no interior billiard room not having a principal door or entrance and such door and all other doors entering such room shall have therein a section of clear glass sufficient to afford a clear view of such billiard room from the outside. None of these provisions, however, shall be construed to prevent the maintenance of washrooms or toilet rooms for proper purposes or the maintenance of closets for storing purposes exclusively.

§ 350. **Certain persons not to be licensed or employed.** No person or corporation who or which has been convicted of a felony or of a second violation of this article and no firm or association of which any member has been convicted of a felony or a second violation of this article and no person who is not a citizen and no firm or association of which any member is not a citizen shall be permitted to carry on the business of conducting such public billiard room. It shall be unlawful for the proprietor of such billiard or pocket billiard room to knowingly employ in carrying on the business of such public billiard room any person who has been convicted of a felony or, until after one year after the date of forfeiture, any person who has forfeited his license under this act.

§ 351. **Penalties for violation of this article.** The penalty for any violation of any section of this article shall be for the first offense a fine of fifty dollars and for the second offense either a fine not to exceed two hundred and fifty dollars, or imprisonment for thirty days, or both, and in addition upon such conviction for such second offense the license of the person, firm, association or corporation violating the same shall be canceled and revoked and the bond upon such license shall be forfeited. Where an act in violation of a provision of this article is also a crime punishable by other provisions of the penal law, this section shall not prevent a prosecution for violation of such other provision, and nothing contained in this article shall authorize an act or omission which is a violation of any other provision of the penal law. It shall not be a defense to a prosecution for a violation of any of the provisions of this article that the premises where the violation is alleged

to have occurred were conducted during prohibited hours as a private club if at other times such premises were conducted as a public place of business for profit.

§ 352. **Restrictions as to signs and similar descriptive matter.** The word "pool" shall be discontinued as a descriptive word referring to a pocket billiard room or place. Wherever the word "pool" appears on any window, sign, building or stationery, used for or in connection with a billiard or pocket billiard room or place, it must be changed to read "billiards" or "pocket billiards."

§ 353. **Duties of public officers in relation to complaints and prosecutions under this article.** It shall be the duty of every sheriff, deputy sheriff, police officer, constable, state trooper or other peace officer, having notice or knowledge of any violation of the provisions of this article to immediately notify the district attorney of the county in which the violation occurs, by a statement under oath of the fact of such violation, and it shall be the duty of such district attorney when complaint on oath is made of such violation forthwith to cause the arrest and attend the examination personally or by an assistant of each person so complained of. If such violation is punishable, by revocation of a license or forfeiture of a bond, or both, such statement shall be made to the state tax commission who shall proceed to take such action as is herein provided for. Nothing contained in this section shall prevent any citizen of the state from making a complaint to the state tax commission in a proceeding to revoke a license, nor from making a complaint to a court or magistrate of competent jurisdiction charging a violation of the provisions of this article.

§ 354. **Directory of billiard and pocket billiard rooms.** It shall be the duty of the state tax commission to compile and keep in a place accessible to the public a directory of all billiard and pocket billiard rooms licensed under the provisions of this article, giving the full names and addresses of the proprietors and the location of the respective premises.

§ 355. **Saving clause.** If any section or provision of this article shall at any time be declared to be unconstitutional, it is the expressed legislative intent that no other section or provision hereof be thereby affected.

In effect,
when.

§ 2. This act shall take effect September first, nineteen hundred and twenty-two, except that applications may be made at any time before that day for licenses under section three hundred and forty-five of the penal law, as added by this act, and such licenses issued, for the year beginning September first, nineteen hundred and twenty-two.

CHAPTER 672

AN ACT to amend the real property law, in relation to the licensing and regulation of real estate brokers and salesmen in cities and in counties adjoining a city having a population of one million or more.

Became a law April 15, 1922, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifty-two of the laws of nineteen hundred and nine, entitled "An act relating to real property, constituting chapter fifty of the consolidated laws," is hereby amended by inserting therein a new article, to be article twelve-a thereof, to read as follows:

Art. 12a
added to
§ 1 of
L. 1909,

ARTICLE 12-A.

REAL ESTATE BROKERS AND REAL ESTATE SALESMEN.

Section 440. Definitions.

440-a. License required for real estate brokers and salesmen.

441. Application for license.

441-a. License and pocket card.

441-b. License fees.*

441-c. Revocation and suspension of licenses.

441-d. Notice of hearing on complaints.

441-e. Certiorari to review action of commission.

442. Splitting commissions.

442-a. Salesman's license suspended by revocation of employer's license.

442-b. Compensation of salesmen; restrictions.

442-c. Discharge of salesmen; report.

442-d. Violations by salesmen; brokers' responsibility.

442-e. Actions for commission; license prerequisite.*

442-f. Violations.

442-g. Saving clause.

442-h. Non-resident licensees.*

442-i. Pocket-card for non-resident.

442-j. Roster of licensees.

442-k. Employees; compensation.

442-l. Effect of invalid provision.

§ 440. Definitions. Whenever used in this article "real estate broker" means any person, firm or corporation, who, for another and for a fee, commission or other valuable consideration, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of an estate or interest in real estate, or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate,

* So in original. [Does not conform to section heading.]

a loan secured or to be secured by a mortgage or other incumbrance upon or transfer of real estate.

"Real estate salesman" means a person employed by a licensed real estate broker to sell or offer for sale, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate, or to lease or rent or offer to lease, rent or place for rent any real estate, for or in behalf of such real estate broker.

§ 440-a. **License required for real estate brokers and salesmen.** On and after the first day of October, nineteen hundred and twenty-two, no person, copartnership or corporation shall engage in or follow the business or occupation of, or hold himself or itself out or act temporarily, or otherwise as a real estate broker or real estate salesman in a city or in a county adjoining a city having a population of one million or more, without first procuring a license therefor as provided in this article.

§ 441. **Application for license.** 1. **Form.** Any person, copartnership or corporation desiring to act as a real estate broker or any person desiring to act as a real estate salesman in a city or in a county adjoining a city having a population of one million or more on or after the first day of October, nineteen hundred and twenty-two, shall file with the state tax commission an application for a license in such form and detail as the state tax commission shall prescribe, setting forth the following:

(a) The kind of license desired.

(b) The name and residence address of the applicant.

If the applicant be a copartnership the name and residence address of each member thereof; or, if the applicant be a corporation, the name and residence address of each of its officers.

(c) The place or places, including the city, town or village where the business is to be conducted, with the street and number, and the manner in which such place of business is designated.

(d) The business or occupation theretofore engaged in by the applicant, or, if a copartnership, by each member thereof, or, if a corporation, by each officer thereof, for a period of two years, immediately preceding the date of such application, setting forth the place or places where such business or occupation was engaged in.

(e) Such further information as the state tax commission may reasonably require to enable it to determine the trustworthiness of the applicant, including each member of the copartnership or each officer of the corporation, and his or their competency to transact the business of real estate broker or salesman in such a manner as to safeguard the interests of the public.

(f) Every application for a real estate salesman's license shall also set forth the period of time in which he has been engaged in the real estate business, stating the name and address of the real estate broker then employing him or in whose employ he is to enter. Each application for a license under this article shall be verified by the applicant; if made by a copartnership it shall be verified by a member thereof, or if made by a corporation by an

officer thereof. An application for a license shall be accompanied by the appropriate license fee, as hereinafter prescribed in this article.

2. Renewals. Any license granted under the provisions hereof may be renewed by the commission upon application therefor by the holder thereof, in such form as the commission may prescribe, and payment of the annual fee for such license. In case of application for renewal of license, the commission may dispense with the requirement of such statements as it deems unnecessary in view of those contained in the original application for license.

§ 441-a. License and pocket card. The state tax commission, if satisfied of the competency and trustworthiness of the applicant, shall issue to him or it a license in such form as the commission shall prescribe, but which must set forth the name and principal business address of the licensee, and, in the case of a real estate salesman, the name and business address of the broker by whom the salesman is employed. Each license shall have imprinted or impressed thereon the seal of the state tax commission. The license of a real estate salesman shall be sent by the commission to the real estate broker by whom such salesman is employed and shall be kept in the custody and control of such broker. In case a salesman shall voluntarily leave the service of a real estate broker the salesman's license shall be returned forthwith by the broker to the commission, who shall reissue the same, without fee, upon written notification that the salesman has entered the employ of another licensed real estate broker.

2. Terms. A license issued or reissued under the provisions of this article shall entitle the person, copartnership or corporation to act as a real estate broker, or, if the application is for a real estate salesman's license, to act as a real estate salesman in this state, up to and including the thirtieth day of September following the date of the issuing of the license.

3. Place of business. Except as otherwise provided in this article, each licensed real estate broker shall have and maintain a definite place of business within this state. Where the applicant for a real estate broker's license maintains more than one place of business, the broker shall apply for and procure a supplemental license for each branch office so maintained; such supplemental license shall be issued without additional license fee.

4. Display of license. The license of a real estate broker shall be conspicuously displayed in his principal place of business at all times. Licenses issued for branch offices shall be conspicuously displayed therein.

5. Change of address. Notice in writing shall be given the state tax commission by a licensee of any change of his or its principal business address, whereupon the commission shall issue a new license for the unexpired license term, without charge. A change of principal business address by a licensee without such notification and reissue of license shall operate to cancel the license theretofore issued to him or it.

6. Pocket card. The state tax commission shall prepare and issue to each licensee a pocket card of such size and design as the commission may prescribe, but which shall contain the name and business address of the licensee, and, in the case of a real estate salesman, the name and business address of his employer, and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as may be. Each such pocket card shall bear the imprint or impress of the seal of the state tax commission.

§ 441-b. **License fee.** 1. Generally. In cities of the first class the annual license fee for a real estate broker shall be twenty-five dollars and for a real estate salesman five dollars. In cities of the second class, the annual license fee for a real estate broker shall be fifteen dollars and for a real estate salesman three dollars. In all other places in which this article is applicable, the annual license fee for a real estate broker shall be ten dollars and for a real estate salesman two dollars.

2. Corporations and copartnerships. If the licensee be a corporation, the license issued to it shall entitle the president thereof, or such other officer as shall be designated by such corporation, to act as a real estate broker. For each other officer who shall desire to act as a real estate broker in behalf of such corporation an additional license shall be applied for and issued, as hereinbefore provided, the annual fee for which shall be but one-half the annual fee required by this section for the original license to the corporation. If the licensee be a copartnership the license issued to it shall entitle one member thereof to act as a real estate broker, and for each other member of the firm who desires to act as a real estate broker an additional license shall be applied for and issued, as hereinbefore provided, the annual fee for which shall be but one-half the annual fee required by this section for the original license to the copartnership.

3. Commutation of fee. Where an application for a license is made after the first day of April in any year, subsequent to the year nineteen hundred and twenty-two the fee for the license for the remainder of the license year shall in any case be but one-half of the yearly license fee prescribed in this section for such license.

4. Disposition of fees. The state tax commission shall on the first day of each month make a verified return to the state treasurer of all license fees received by it under this article during the preceding calendar month, stating from what city or county received and by whom and when paid. The commission shall on or before the tenth day of each month pay to the state treasurer fifty per centum of all moneys to his credit on account of brokerage license fees, at the close of business on the last day of the preceding month and from the money so deposited shall pay to the treasurer of each county fifty per centum of such fees collected from the residents of such county. In the city of New York such payment shall be made through the chamberlain of such city on account of all counties included therein and shall be paid into

the treasury of such city to the credit of the general fund. The county treasurer of each county, except the counties in the city of New York, shall pay to the city treasurer of each city in such county fifty per centum of the fees collected from the residents of any such city and the balance shall be paid into the general fund to be used for general county purposes.

§ 441-c. **Revocation and suspension of licenses.** 1. Powers of commission. The state tax commission may revoke the license of a real estate broker or salesman or suspend the same, for such period as the commission may deem proper, upon conviction of the licensee of a violation of any provision of this article, or for a material misstatement in the application for such license, or if such licensee has been guilty of fraud or fraudulent practices, or has demonstrated untrustworthiness or incompetency to act as a real estate broker or salesman, as the case may be.

5. Determination of commission. In the event that the state tax commission shall revoke or suspend any such license, its determination shall be in writing and officially signed. The original of such determination, when so signed, shall be filed in the office of the commission and copies thereof shall be mailed to the broker or salesman and addressed to the principal place of business of such broker or salesman, and to the complainant, within two days after the filing thereof as herein prescribed.

§ 441-d. **Notice of hearing on complaints.** The state tax commission shall, before denying an application for license or before suspending or revoking any license and at least ten days prior to the date set for the hearing, notify in writing the applicant for, or the holder of such license of any charges made and shall afford said applicant, or licensee an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant, or licensee or by mailing same by registered mail to the last known business address of such applicant, or licensee. If said applicant, or licensee be a salesman, the commission shall also notify the broker employing him, or in whose employ he is about to enter, of the charges by mailing notice by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe. The commission shall have the power to subpoena and bring before it any person in this state, or take testimony of any such person by deposition with the same fees and mileage in the same manner as prescribed by law in judicial procedure in courts of this state in civil cases.

§ 441-e. **Certiorari to review action of commission.** The action of the state tax commission in granting or refusing to grant or to renew a license under this article or in revoking or suspending or refusing to revoke or suspend such a license shall be subject to review by writ of certiorari at the instance of the applicant for such license, the holder of a license so revoked or suspended or the person aggrieved. If the commission shall revoke or shall refuse to renew a license issued under this article and the holder of such license shall apply for a writ of certiorari to review such

action, the license of the broker or salesman shall be deemed to be in full force and effect for all purposes, including the right to renewal, until the final determination of such certiorari proceedings and all appeals therefrom, provided the fee for such license shall be paid.

§ 442. **Splitting commissions.** No real estate broker shall pay any part of a fee, commission or other compensation received by the broker to any person for any service, help or aid rendered, in any place in which this article is applicable, by such person to the broker in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person be a duly licensed real estate salesman regularly employed by such broker or a duly licensed real estate broker or a person regularly engaged in the real estate brokerage business in a state outside of New York.

§ 442-a. **Salesman's license suspended by revocation of employer's license.** The revocation of a broker's license shall operate to suspend every real estate salesman's license granted to any person by reason of his employment by such broker, pending a change of employer and the issuing of a new license to the salesman, which shall be issued without charge if granted during the same license year in which the original license was issued.

§ 442-b. **Compensation of salesmen; restrictions.** No real estate salesman in any place in which this article is applicable shall receive or demand compensation of any kind from any person, other than a duly licensed real estate broker regularly employing the salesman, for any service rendered or work done by such salesman in the appraising, buying, selling, exchanging, leasing, renting or negotiating of a loan upon any real estate.

§ 442-c. **Discharge of salesmen; report.** When any real estate salesman in any place in which this article is applicable shall have been discharged by a real estate broker, the broker shall forthwith return the license of the salesman to the state tax commission with a sworn statement, signed by such broker, setting forth the true cause of the salesman's discharge. The broker shall also, at the time of returning the salesman's license, mail to the salesman, at his last known place of residence, a communication notifying the salesman that his license has been returned to the commission as herein prescribed, and a copy of such communication shall be annexed to the salesman's license when the same shall be returned to the commission by the broker as required by this section. No real estate salesman shall perform any act within any of the prohibitions of this article from and after the return, for any cause, of such salesman's license to the commission by a real estate broker until a new license shall have been issued to him.

§ 442-d. **Violations by salesmen; brokers' responsibility.** No violation of a provision of this article by a real estate salesman or other employee of a real estate broker shall be deemed to be cause for the revocation or suspension of the license of the broker, unless it shall appear that the broker had actual knowledge of such violations.

§ 442-e. **Actions for commissions; license prerequisite.** No person, copartnership or corporation shall bring or maintain an action in any court of this state for the recovery of compensation for services rendered, in any place in which this article is applicable, in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and providing that such person was a duly licensed real estate broker or real estate salesman on the date when the alleged cause of action arose.

§ 442-f. **Violations.** Any person who violates any provision of this article shall be guilty of a misdemeanor. In case the offender shall have received any sum of money as commission, compensation or profit by or in consequence of his violation of any provision of this article, he shall also be liable to a penalty of not less than the amount of the sum of money received by him as such commission, compensation or profit and not more than four times the sum so received by him, as may be determined by the court, which penalty may be sued for and recovered, by any person aggrieved and for his use and benefit, in any court of competent jurisdiction. It shall be the duty of the court or judge, upon a conviction for a violation of any provision of this article, and within ten days thereafter, to make and file with the state tax commission a detailed report showing the date of such conviction, the name of the person convicted and the exact nature of the charge.

§ 442-g. **Saving clause.** The provisions of this article shall not apply to receivers, referees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court; or public officers while performing their official duties, or attorneys at law.

§ 442-h. **Nonresident licensee.** A nonresident of this state may become a real estate broker or a real estate salesman, in any place in which the provisions of this article are applicable, by conforming to all of the provisions of this article, except that such nonresident broker or salesman regularly engaged in the real estate business as a vocation, and who maintains a definite place of business in some other state, shall not be required to maintain a place of business within this state. The state tax commission shall recognize, in lieu of the recommendation and statements required to accompany an application for license, the license issued to a nonresident broker or salesman by another state and shall issue a license to such nonresident broker or salesman upon payment of the license fee and the filing by the applicant with the commission of a certified copy of the applicant's license issued by such other state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on the state tax commission or a deputy to be designated by it, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to

be as valid and binding as if due service had been made upon said applicant in the state of New York. Said consent shall be duly acknowledged, and, if made by a corporation, shall be authenticated by the seal of such corporation. In case any process or pleadings mentioned in this act are served upon the state tax commission or upon a deputy to be designated by it, it shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered mail to the main office of the applicant against which said process or pleadings are directed, and no default in any such proceeding or action shall be taken except it shall appear by affidavit of a member of the commission, or the deputy designated by it, that a copy of the process or pleading was mailed to the defendant as herein required, and no judgment by default shall be taken in any such action or proceeding within twenty days after the date of mailing of such process or pleading to the nonresident defendant.

§ 442-i. **Pocket card for nonresident.** The state tax commission shall prepare and issue to each nonresident licensee a pocket card in all respects as herein provided for licenses issued to resident brokers and salesmen, except that the pocket card accompanying nonresident licenses shall be of a different color so as to distinguish the same from the cards issued to resident licensees.

§ 442-j. **Roster of licensees.** The state tax commission shall publish, at least once in each year, a roster of the names and addresses of all persons, firms and corporations licensed under the provisions of this article, and shall publish monthly a list of all licenses which have been suspended or revoked during the last preceding calendar month. Such lists shall also contain such other information relative to the enforcement of the provisions of this article as the commission may deem of interest to the public. Copy of each roster or list issued by the commission shall be forwarded to the city clerk of each county in the state within ten days after its publication, and the same shall be held by such city clerk or county clerk, as the case may be, as a public record for a period of at least one year. A copy of any roster or list issued by the commission shall be mailed by it to any person in the state upon request and without charge.

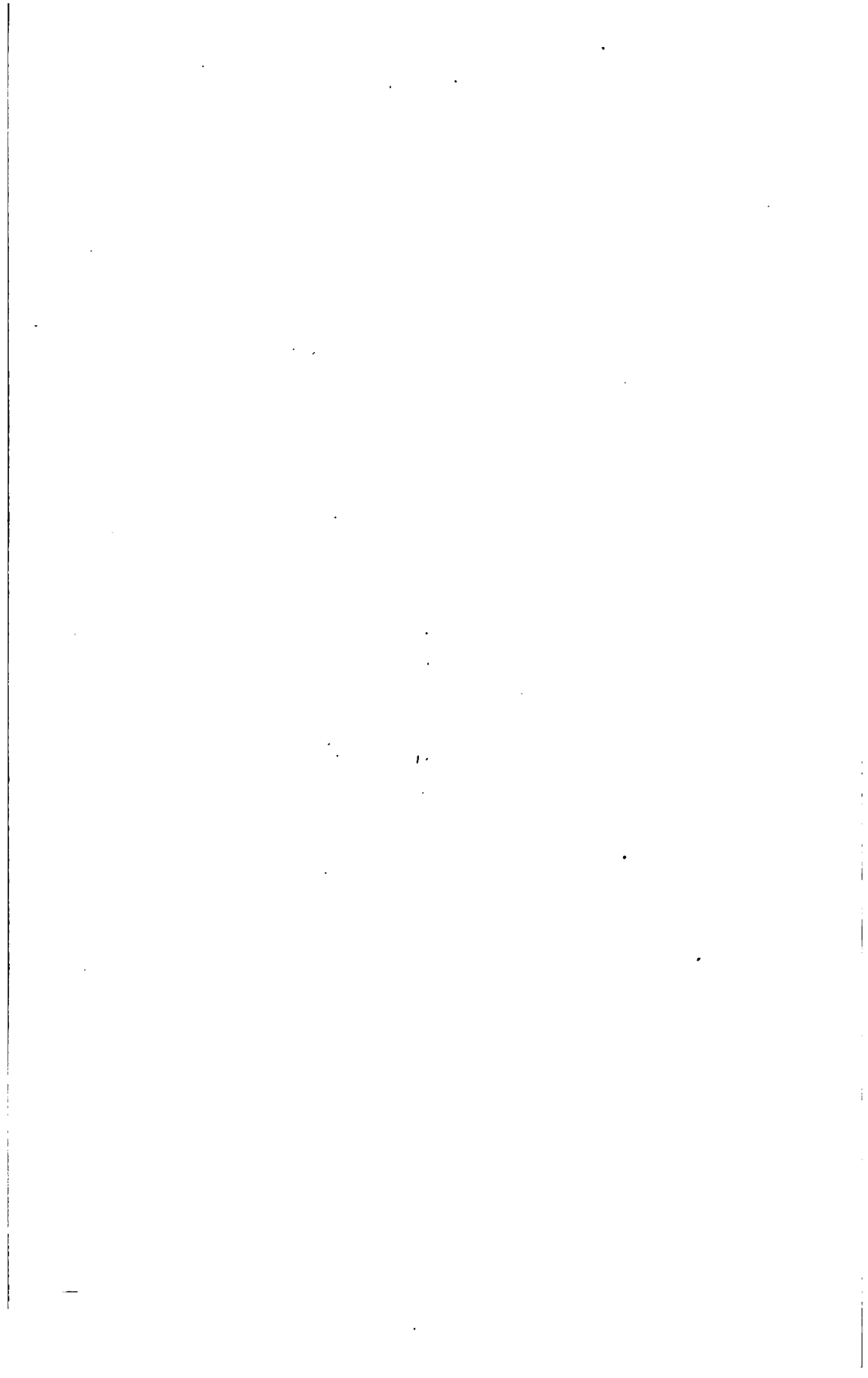
§ 442-k. **Employees; compensation.** The president of the state tax commission may, subject to the civil service law, employ and fix the compensation of such employees as may be necessary for the efficient administration of this article, who shall exercise such of the powers and perform such of the duties conferred upon and imposed upon the state tax commission by this article as he may delegate to such employees.

§ 442-l. **Effect of invalid provision.** Should the courts of this state declare any provision of this article unconstitutional, or unauthorized, or in conflict with any other section or provision of this article, then such decision shall affect only the section or provision so declared to be unconstitutional or unauthorized and shall not affect any other section or part of this article.

§ 2. This act shall take effect immediately.

APPENDIX

[1847]



AMENDMENTS TO THE CONSTITUTION

OF THE

STATE OF NEW YORK

Adopted at the general election held November 8, 1921

ARTICLE II

Section 1. Every citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he or she may offer his or her vote, shall be entitled to vote at such election in the election district of which he or she shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided however that a citizen by marriage shall have been an inhabitant of the United States for five years; and provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his or her vote by reason of his or her absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes.¹

Qualifications of voters.

Electors in military service not to be deprived of vote.

²Notwithstanding the foregoing provisions, after January first, one thousand nine hundred and twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English; and suitable laws shall be passed by the legislature to enforce this provision.

Literacy test.

ARTICLE III

§ 26. There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. ³The legislature may provide by law for forms of government for the counties of Westchester and Nassau, or either, subject to adoption and approval by the electors of any such county at a general election in an odd-numbered year.

Boards of supervisors: forms of government for Westchester and Nassau counties.

¹ Words "in the election districts in which they respectively reside," omitted.

² Following paragraph new.

³ Remainder of section, except last sentence, new.

Amendments to the Constitution

Any such form of government may include the transfer to the county or to county officers of any functions now exercised by towns or town officers. The law providing for such form of government shall also prescribe the manner in which the county affected may subsequently abandon it, and revert to its former form of government. The adoption of such form of government by the county shall not preclude the legislature from amending or modifying such plan. If under such form of government the board of supervisors be abolished, the powers and duties of the board of supervisors, as prescribed by the constitution, or by statute if not provided for by such form of government, shall devolve upon the governing elective body in such county. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city.

Legislature
may confer
powers on
county
boards and
officers.

§ 27. The legislature shall, by general laws, confer upon the boards of supervisors, or other governing elective bodies,⁴ of the several counties of the state such further powers of local legislation and administration as the legislature may, from time to time, deem expedient. ⁵In counties which now have, or hereafter have, county auditors or other fiscal officers, authorized to audit bills, accounts, charges, claims or demands against the county, the legislature may confer such powers upon such ⁶auditors, or fiscal officers, as the legislature may, from time to time, deem expedient.

ARTICLE VI

Inferior
local
courts.

§ 18. Inferior local courts of civil and criminal jurisdiction may be established by the legislature, but no inferior local court hereafter created shall be a court of record. Except as herein provided⁷ the legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon county courts by or under this article. ⁸The legislature may establish children's courts, and courts of domestic relations, as separate courts, or as parts of existing courts or courts hereafter to be created, and may confer upon them such jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and to compel the support of a wife, child or poor relative by persons legally chargeable therewith who abandon or neglect to support any of them. In conferring such jurisdiction the legislature shall

Children's
courts and
courts of
domestic
relations.

⁴ Words "or other governing elective bodies" new.

⁵ Word "and" omitted. Following sentence was formerly part of preceding sentence.

⁶ Word "such" substituted for word "said."

⁷ Words "Except as herein provided" new.

⁸ Remainder of section, except last sentence, new.

Amendments to the Constitution

provide that whenever a child is committed to an institution or is placed in the custody of any person by parole, placing out, adoption or guardianship, it shall be so committed or placed, when practicable, to an institution governed by persons, or in the custody of a person, of the same religious persuasion as the child. In the exercise of such jurisdiction such courts may hear and determine such causes, with or without a jury, except those involving a felony. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the legislature may direct.

ARTICLE VII

§ 8. The legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the state and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street, nor to that portion of the existing Erie canal in the city of Utica between the westerly line of Schuyler street and the easterly line of Third street, provided that a flow of sufficient water from Schuyler street to Third street to feed that portion of the canal east of Third street be maintained; nor shall such prohibition apply to that portion of the existing Erie canal in the county of Herkimer between the easterly portion of the village of Mohawk and the county boundary line between the counties of Herkimer and Oneida. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

Canals not to be sold or otherwise disposed of; certain canals excepted.

Disposition of funds.

§ 8. The legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the state and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street, nor to that portion of the existing Erie canal between Rome and Mohawk.¹⁰ All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

Canals not to be sold or otherwise disposed of; certain canals excepted.

Disposition of funds.

¹⁰ Remainder of sentence new.

¹⁰ Words "between Rome and Mohawk" substituted for words "in the city of Utica between the westerly line of Schuyler street and the easterly line of Third street, provided that a flow of sufficient water from Schuyler street to Third street to feed that portion of the canal east of Third street be maintained."

CONCURRENT RESOLUTIONS

OF THE

SENATE AND ASSEMBLY

PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE STATE OF NEW YORK

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to section one-a¹ of article two of the constitution, in relation to absent voters. Proposed amendment to art. 2, § 1a.

Section 1. Resolved (if the Senate concur), That section one-a of article two of the constitution be amended to read as follows:

§ 1-a. The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who may, on the occurrence of any general election be unavoidably absent from the state or county of their residence because they are inmates of a soldiers' and sailors' home, or because² their duties, occupation or business require them to be elsewhere within the United States, may vote, and for the return and canvass of their votes in the election district in which they respectively reside. Legislature may provide vote for absent voters.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election. Referred to legislature chosen at next election of senators.

STATE OF NEW YORK,
IN ASSEMBLY, Feb. 27, 1922.
This bill was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
IN SENATE, Mar. 17, 1922.
This bill was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
JEREMIAH WOOD,
President.

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to article five of the constitution, in relation to the offices of state engineer and surveyor and superintendent of public works. Proposed amendment to art. 5.

Section 1. Resolved (if the Assembly concur), That article five of the constitution be amended by inserting therein a new section, to be section two-a, to read as follows: § 2a added.

§ 2-a. The legislature may abolish the office of state engineer and surveyor to take effect upon the expiration of the term of the then incumbent. The legislature may also abolish the office of superintendent of public works and assistant superintendent of public Abolition of offices of state engineer and superintendent of

¹ Section 1a as added 1919.

² Words "they are inmates of a soldiers' and sailors' home," new.

Concurrent Resolutions

public
works au-
thorized;
powers and
duties may
be vested
in other
officers.

works to take effect at a time prescribed by the legislature. If either of such offices be abolished, the legislature may vest in another officer, by the same or different name, the statutory powers and duties of the officer whose office shall be thus abolished, subject to modification of such powers and duties by the legislature. If the office of state engineer and surveyor or the office of superintendent of public works be abolished, the legislature shall designate a state officer, or shall provide for the appointment or designation by the governor of a state officer, to serve as commissioner of the land office or as member of the canal board, in place of the officer whose office shall be so abolished.

Referred to
legislature
chosen at
next elec-
tion of
senators.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN SENATE, Feb. 27, 1922.

The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof.

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 15, 1922.

The foregoing resolution was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

Proposed
amendment
to art. 6.

CONCURRENT RESOLUTION of the Senate and Assembly proposing amendments generally to article six of the constitution.¹

Section 1. Resolved (if the Assembly concur), That article six of the constitution be amended to read as follows:

ARTICLE VI

Judicial
power.

SECTION 1. The judicial power of the state shall be vested in the courts which are in this article expressly continued and established and in such inferior local courts as now or hereafter may exist under and by virtue of the provisions of this article.

Supreme
court;
jurisdiction,
judicial
districts,
justices.

SECTION 2. The supreme court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or hereafter may be prescribed by law not inconsistent with this article. The existing judicial districts of the state are continued until changed as hereinafter provided. The supreme court shall consist of the justices now in office and their successors, together with such additional justices as may be authorized by law. The successors of said justices shall be chosen by the electors of their respective judicial districts. The legislature may alter the judicial districts once after every federal census or state enumeration, each district being bounded

¹ The amendments proposed are so numerous and extensive that it is impracticable to indicate the changes to be made. This proposed amendment of art. 6 is that formulated by the judiciary convention of 1921, pursuant to L. 1921, ch. 348. For report and supplemental report of the convention see legislative documents (1922), nos. 37, 67.

Concurrent Resolutions

by county lines, and thereupon re-apportion the justices to be thereafter elected in the district so altered.

The legislature may from time to time increase the number of justices in any judicial district, except that the number of justices in the first and second districts shall not be increased to exceed one justice for each eighty thousand, or fraction over forty thousand, of the population thereof, as shown by the last federal census or state enumeration, and except that the number of justices in any other district shall not be increased to exceed one justice for each sixty thousand, or fraction over thirty-five thousand, of the population thereof as shown by the last federal census or state enumeration. Any justice of the supreme court, except as otherwise provided in this article, may perform the duties of his office or hold court in any county.

SECTION 3. The division of the state into four judicial departments is continued as now constituted by law. Once every ten years, the legislature may alter the boundaries of the judicial departments, but without increasing the number thereof, and each department shall be bounded by the lines of judicial districts. The appellate divisions of the supreme court are continued, and shall consist of seven justices of the supreme court in each of the first and second departments, and five justices in each of the other departments. In each appellate division, four justices shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

The governor shall designate the presiding justice of each appellate division, who shall act as such during his term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices elected to the supreme court, for terms of five years or the unexpired portions of their respective terms of office, if less than five years. The justices heretofore designated shall continue to sit in the appellate divisions until the terms of their respective designations shall expire. From time to time, as the terms of the designations expire, or vacancies occur, the governor shall make new designations. He may also, on request of any appellate division, make temporary designations in case of the absence or inability to act of any justice in such appellate division, for service only during such absence or inability to act. In case any appellate division shall certify to the governor that one or more additional justices are needed for the speedy disposition of the business before it, the governor shall designate an additional justice or additional justices; but when the need for such additional justice or justices shall no longer exist, the appellate division shall so certify to the governor, and thereupon service under such designation or designations shall cease. A majority of the justices designated to sit in any appellate division shall at all times be residents of the department.

Whenever the appellate division in any department shall be unable to dispose of its business within a reasonable time, a

Judicial
depart-
ments.

Appellate
divisions;
how consti-
tuted.

Designa-
tion of
justices.

Transfer of
pending
appeals.

Concurrent Resolutions

majority of the presiding justices of the several departments, at a meeting called by the presiding justice of the department in arrears, may transfer any pending appeals from such department to any other department for hearing and determination.

Jurisdiction.

Clerks and attendants.

Designations of terms and assignment of justices of supreme court.

Powers of justices of appellate division.

The several appellate divisions, except as hereinafter provided, shall have and exercise such original or appellate jurisdiction as is now or may hereafter be prescribed by law. Each appellate division shall have power to appoint and remove its clerk and attendants. The appellate division in each department shall have power to fix the times and places for holding all terms of the supreme court held therein, to make rules therefor, and to assign the justices in the departments to hold such terms, including the assignment of a justice to hold any extraordinary term appointed by the governor, provided, however, that, if the appellate division be not then in session, the governor may assign any justice of the supreme court to hold such extraordinary term.

No justice of the appellate division shall, within the department to which he may be designated to perform the duties of an appellate justice, exercise any of the powers of a justice of the supreme court, other than those of a justice out of court, and those pertaining to the appellate division; but any such justice, when not actually engaged in performing the duties of such appellate justice in the department to which he is designated, may hold any term of the supreme court and exercise any of the powers of a justice of the supreme court in any judicial district in any other department of the state.

Appellate terms in first and second departments; establishment, how constituted.

Jurisdiction.

SECTION 4. The appellate divisions in the first and second departments shall severally have power to establish an appellate term of the supreme court to be held in and for its department, to be constituted of not less than three nor more than five justices of the supreme court, who shall be designated from time to time by such appellate division and shall be residents of the department. Any such appellate term may be discontinued and reestablished as said appellate divisions, respectively, shall from time to time determine, and any designation to service therein may be revoked at any time by the appellate division so designating. In each appellate term, no more than three justices assigned thereto shall sit in any case; two of such justices shall constitute a quorum, and the concurrence of two shall be necessary to a decision. Such appellate terms shall have jurisdiction to hear and determine all appeals now or hereafter authorized by law to be taken to the supreme court or to the appellate division other than appeals from the supreme court, a surrogate's court, or the court of general sessions of the city of New York, as may from time to time be directed by the appellate division establishing such appellate term. Any appellate term or any justice of the appellate division establishing it may allow an appeal from such appellate term to such appellate division whenever in the opinion of either a question of law or fact is involved which ought to be reviewed.

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SECTION 5. The official terms of the justices of the supreme court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the supreme court, the same shall be filled for a full term at the next general election held not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or, if not in session, the governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

Terms of justices of supreme court. Vacancies, how filled.

SECTION 6. The court of appeals is continued. It shall consist of the chief judge, the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the state, and such justices of the supreme court as may be designated for service in said court as hereinafter provided. The official terms of the chief judge and elected associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case. In case of the temporary absence or inability to act of any judge of the court of appeals, the court may designate any justice of the supreme court to serve as associate judge of the court during such absence or inability to act. The court shall have power to appoint and to remove its clerk and attendants.

Court of appeals continued; how constituted.

Clerk and attendants.

Whenever and as often as the court of appeals shall certify to the governor that the court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the governor shall designate such number of justices of the supreme court as may be so certified to be necessary, but not more than four, to serve as associate judges of the court of appeals. The justices so designated shall be relieved, while so serving, from their duties as justices of the supreme court, and shall serve as associate judges of the court of appeals until the court shall certify that the need for the services of any such justices no longer exists, whereupon they shall return to the supreme court. The governor may fill vacancies among such designated judges. No such justice shall serve as associate judge of the court of appeals except while holding the office of justice of the supreme court. The designation of a justice of the supreme court as an associate judge of the court of appeals shall not be deemed to affect his existing office any longer than until the expiration of his designation as such associate judge, nor to create a vacancy.

Designation of supreme court justices as associate judges.

SECTION 7. When a vacancy shall occur otherwise than by expiration of term, in the office of chief or elected associate judge

Vacancies in court of appeals, how filled.

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of the court of appeals, the same shall be filled, for a full term, at the next general election held not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate if the senate shall be in session, or, if not in session, the governor may fill such vacancy by appointment. If any such appointment be made from among the justices of the supreme court, such appointment shall not be deemed to affect his existing office any longer than until the expiration of his appointment as such associate judge, nor to create a vacancy. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but, in such case, the appointment shall not be deemed to affect his office of associate judge any longer than until the expiration of his appointment as chief judge, nor to create a vacancy. The powers and jurisdiction of the court shall not be suspended for want of appointment or election when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

Jurisdiction
of court of
appeals.

SECTION 8. The jurisdiction of the court of appeals, except where the judgment is of death, or where the appellate division, on reversing or modifying a final judgment in an action, makes new findings of fact and renders final judgment thereon, shall be limited to the review of questions of law; but the right to appeal shall not depend upon the amount involved.

Appeals may be taken to the court of appeals in the classes of cases enumerated in this section.

In crim-
inal cases.

In criminal cases, directly from a court of original jurisdiction where the judgment is of death, and in other criminal cases from an appellate division or otherwise as the legislature may from time to time provide.

In civil
cases and
proceedings.

In civil cases and proceedings as follows:

(1) As of right, from a judgment or order entered upon the decision of an appellate division of the supreme court which finally determines an action or special proceeding wherein is directly involved the construction of the constitution of the state or of the United States, or where one or more of the justices of the appellate division dissents from the decision of the court, or where the judgment or order is one of reversal or modification.

(2) As of right, from an order of the appellate division granting a new trial where the appellant stipulates that, upon affirmance, judgment absolute shall be rendered against him.

(3) As of right, from a judgment or order of a court of record of original jurisdiction which finally determines an action or special proceeding where the trial court certifies that the only question involved is the validity of a statutory provision of the state or of the United State under the constitution of the state

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or of the United States; and on any such appeal only the constitutional question shall be considered and determined by the court.

(4) From a determination of the appellate division of the supreme court in any department, other than a judgment or order which finally determines an action or special proceeding, where the appellate division allows the same and certifies that one or more questions of law have arisen which, in its opinion, ought to be reviewed by the court of appeals, but in such case the appeal shall bring up for review only the question or questions so certified; and the court of appeals shall certify to the appellate division its determination upon such question or questions.

(5) From a judgment or order entered upon the decision of an appellate division of the supreme court which finally determines an action or special proceeding but which is not appealable under subdivision one of this section where the appellate division shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals, or where, in case of the refusal so to certify, an appeal is allowed by the court of appeals. Such an appeal shall be allowed when required in the interest of substantial justice. The legislature, however, may from time to time extend the right of appeal in said cases so as to dispense with the requirement of allowance. No appeal shall be taken to said court of appeals from a final judgment or order of the appellate division in any civil case or proceeding originally commenced in any court other than the supreme court, a county court, a surrogate's court or a court of claims or board of audit unless the appellate division of the supreme court shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals.

SECTION 9. Judges of the court of appeals and justices of the supreme court may be removed by current resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace, justices of the municipal court of the city of New York, and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

The legislature of its own motion, in the manner to be provided by joint rule, which shall continue in force until abrogated or amended by both the senate and the assembly, may convene at any time in special session to take action in the matter of the removal of a judge of the court of appeals or justice of the supreme court; but no other subject shall be acted upon at any such special session.

Removal
of judges.

Concurrent Resolutions

Power of
impeach-
ment.
Trial of
impeach-
ments.

SECTION 10. The assembly shall have the power of impeachment by a vote of a majority of all the members elected thereto. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor or lieutenant-governor, neither the lieutenant-governor nor the temporary president of the senate shall act as a member of the court. No judicial officer shall exercise his office after articles of impeachment against him shall have been preferred to the senate until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any public office of honor, trust or profit under this state; but the party impeached shall be liable to indictment and punishment according to law. The assembly of its own motion, in the manner to be provided by rule, which shall continue in force until abrogated or amended by the assembly, may convene at any time in special session for the purpose of impeachment; but no other subject shall be acted upon at any such special session.

Judgments
in cases of
impeach-
ments.

Special
session of
assembly
for purpose
of impeach-
ment.

County
courts con-
tinued;
abolished
in certain
counties.

Election of
county
judges.

Jurisdiction
of county
courts.

SECTION 11. The existing county courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms, except that the county courts in the counties of Kings, Bronx, Queens and Richmond are abolished on and after the first day of January in the second year following the adoption of this article and the county judges therein shall be thereupon transferred as provided in section fourteen of this article. All county judges, including successors to existing judges, shall be chosen by the electors of the counties for the term of six years from and including the first day of January following their election. Except as in this article otherwise provided, county courts shall have the powers and jurisdiction now prescribed by law, and also original jurisdiction in actions for the recovery of money only, where all the defendants reside in the county and in which the complaint demands judgment for a sum not exceeding three thousand dollars; but, if, in any action brought in said court, a counterclaim for more than three thousand dollars shall be interposed, the supreme court, on the application of either party made in the judicial district embracing the county, may remove the cause to the supreme court, whereupon such action shall proceed and be heard as if originally brought therein. The legislature may hereafter enlarge or restrict the jurisdiction of the county courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only in which (1) the sum demanded exceeds three thousand dollars, or (2) in which any

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person not a resident of the county is a defendant, unless such defendant have an office for the transaction of business within the county and the cause of action arose therein. County judges shall perform such duties as may be prescribed by law, and their compensation, as established by law, shall be payable out of the county treasury. A county judge of any county may hold the county court in any other county when requested by the county judge of such other county; and, in case of the death, absence, or incapacity of a county judge, in a county having no special county judge then able to serve, the governor may designate a county judge of another county to hold the county court during such vacancy, absence, or inability to act.

When county judge to act in another county.

SECTION 12. The legislature, on application of the board of supervisors or other body exercising similar powers, may in any county having a county court, provide for the election of a special county judge or special surrogate, not to exceed two in any county, to discharge the duties of county judge or of surrogate in such cases as may be provided by law. Any such special county judge or surrogate shall be chosen at the general election held in the first odd-numbered year after the creation of any such office, to take office on the first day of January following such election, but no appointment shall be made by the governor to such office meantime.

Special county judge or surrogate.

SECTION 13. The existing surrogates' courts are continued, and the surrogates now in office shall hold their offices until the expiration of their respective present terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the counties of New York, Kings, Bronx and Queens, where they shall hereafter be elected for terms of fourteen years. The legislature may provide for the election of an additional surrogate in any county having a population of more than one million. Surrogates and surrogates' courts shall have the jurisdiction and powers now established by law until otherwise provided by the legislature. The county judge shall be and serve as surrogate of his county except where a separate surrogate has been or shall be elected. In any county having a population exceeding forty thousand wherein there is now no separate surrogate, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer, his compensation shall be established by law, and shall be payable out of the county treasury.

Surrogates' courts; surrogates, jurisdiction.

The legislature may at any time provide that the duties of county judge and surrogate in any county be discharged by the same person. For the relief of surrogates' courts, the legislature may confer upon the supreme court in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates.

SECTION 14. The court of general sessions in and for the city and county of New York is continued, and on and after the first

Court of general sessions for

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city and
county of
New York;
jurisdiction
extended;
judges.

day of January in the second year following the adoption of this article, it shall have the same jurisdiction throughout the city of New York, under the name of the court of general sessions of the city of New York, as it now possesses within the county of New York. The said court shall consist of the judges then in office and the judges transferred thereto by this section, all of whom shall continue to be judges of the court of general sessions of the city of New York for the remainder of the terms for which they severally were elected or appointed. The judges of the county courts of Kings, Bronx, Queens and Richmond then in office shall be and serve as judges of the court of general sessions of the city of New York for the remainder of the terms for which they were severally elected or appointed. The successors to the judges who were elected or appointed as judges of the court of general sessions in and for the city and county of New York shall be elected by the electors within the county of New York, and the successors to the judges who were elected or appointed as county judges of the counties of Kings, Bronx, Queens and Richmond, respectively, shall be elected by the electors within each of such respective counties. The legislature may in its discretion authorize the election of one or more additional judges of said court in any county within the city of New York. The judges who were elected or appointed as judges of the court of general sessions in and for the city and county of New York, and the judges elected or appointed as county judges of the counties of Kings, Bronx, Queens and Richmond, until the expiration of the term for which they were elected or appointed, shall respectively be paid the compensation now fixed by law for the judges of said court of general sessions of the city of New York. The successors to all said judges of the court of general sessions of the city of New York shall be elected as herein provided for terms of fourteen years.

Divisions
of court.

There shall be two divisions of said court to be known respectively as the first and second divisions thereof. The first division shall have and exercise exclusive jurisdiction throughout the counties of New York and Bronx, and the second division shall have and exercise exclusive jurisdiction throughout the counties of Kings, Queens and Richmond. Each division shall consist of the judges elected or appointed within their respective jurisdictions and their successors, and each division may elect from among their number a presiding judge with such administrative powers as the judges of such division may from time to time provide. A judge of one division may hold court in another division if so requested by such division.

Clerks, etc.

The judges of each division shall have power to appoint and remove all clerks, wardens to grand jury, stenographers, attendants and other officers now or hereafter provided for by law for each of the counties embraced within their respective divisions.

Transfer of
proceedings
pending in
county
courts.

All criminal prosecutions and proceedings pending in said county courts on said first day of January in the second year following the adoption of this article shall thereupon be transferred

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to the court of general sessions of the city of New York for hearing and determination at terms of the division comprising the county in which the same may be pending. Until the legislature shall otherwise provide, the clerk of the court of general sessions in and for the city and county of New York and the chief clerk of the county court in each of the counties of Kings, Bronx, Queens and Richmond, shall act within his county as clerk of the court of general sessions of the city of New York, and the respective divisions shall make such rules and regulations respecting such clerks' offices, the assignment of attendants and the distribution of the business of the court in the said several counties as may from time to time be deemed expedient. Any justice of the supreme court may hold a term of the court of general sessions of the city of New York if and when assigned thereto by the appellate division of the department in which the division has jurisdiction.

Clerks, etc.

Justice of
supreme
court, when
to hold
term.

SECTION 15. The city court of the city of New York is continued, and, from and after the first day of January in the second year following the adoption of this article, it shall have the same jurisdiction and power throughout the city of New York, under the name of the city court of the city of New York, as it now possesses within the county of New York and the county of Bronx, and original jurisdiction concurrent with the supreme court in actions for the recovery of money only in which the complaint demands judgment for a sum not exceeding three thousand dollars. It shall consist of the justices then in office, who shall continue to be justices of the court for the remainder of the terms for which they severally were elected or appointed, and the additional justices to be elected as provided in this section. The justices who were elected or appointed as justices of the city court of the city of New York shall be paid the compensation now fixed by law for such justices until the expiration of the terms for which they were respectively elected or appointed. Nine of their successors shall be elected by the electors of the county of New York and one by the electors of the county of Bronx, and hold office for ten years. There shall also be six additional justices, two of whom shall reside in and be chosen by the electors in each of the counties of Kings and Bronx, and one of whom shall reside in and be chosen by the electors in each of the counties of Queens and Richmond, and all of whom shall be elected at the first general election following the adoption of this article, and they and their successors, who shall be chosen in like manner, shall hold office for ten years. But, if the legislature shall provide for the election of a separate officer to serve as surrogate in Richmond county, it may empower such surrogate to perform in said county the duties of a justice of the city court of the city of New York and also the duties of a justice of the supreme court at chambers or out of court. Until the legislature shall otherwise provide, the justice of said city court chosen in the county of Richmond shall also serve as and be surrogate of

City court
of city of
New York;
jurisdiction
extended.

Justices.

Concurrent Resolutions

that energy. The legislature may in its discretion authorize the election of one or more additional justices of said court in any county within the city of New York. The justices hereafter elected shall receive from the city of New York such compensation as may be fixed by law.

The justices of the city court of the city of New York shall be one of their number to be the presiding justice thereof, who shall act as such during his term of office, and who shall be connected with the general administration of the court and the management of the justices to hold the terms thereof, subject to such regulations as the presiding justices of the appellate divisions of the supreme court in the first and second departments shall from time to time prescribe. The justices of said city court shall have power to appoint and remove a chief clerk of the court, and one or more deputy clerks in each county, who shall keep their respective office or offices at a place or places to be designated by the court, and whose duties shall be regulated and supervised by the presiding justice of the court.

All civil actions or proceedings pending on said first day of January in the county courts of the counties of Kings, Bronx, Queens and Richmond, respectively, are hereby transferred to the city court of the city of New York for hearing and determination at terms held within the counties in which the same shall be pending, and, for the purpose only of such hearing and determination and the enforcement of the judgments rendered thereon, said city court shall have and exercise the equity jurisdiction previously vested in the respective county courts from which such cases are so transferred, but not otherwise. Until the legislature shall otherwise provide, the clerk of the city court of the city of New York and the chief clerk of the county court in each of the counties of Kings, Bronx, Queens and Richmond, shall severally act within his county as a deputy clerk of the city court of the city of New York, and the presiding justice of the court shall make such rules and regulations respecting the clerks' offices, the assignment of secretaries to the justices, court clerks, stenographers, interpreters and other attendants and the distribution of the business of the court in the said several counties as from time to time may be expedient, subject to such general regulations as the presiding justices of the appellate divisions of the first and second departments shall from time to time prescribe.

SECTION 16. Vacancies occurring in the office of county judge, special county judge, surrogate, special surrogate, judge of the court of general sessions of the city of New York, or justice of the city court of the city of New York, shall be filled in the same manner as vacancies occurring in the supreme court.

SECTION 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the legislature may direct, elect justices of the peace, term of office shall be four years. In case of an election a vacancy occurring before the expiration of a full term,

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they shall hold for the remainder of the unexpired term. Their number, classification and duties shall be regulated by law. Justices of the peace and district or municipal court justices may be elected in the several cities of this state in such manner and with such powers and for such terms, respectively, as are or may be prescribed by law. Justices of the peace, justices of the municipal court of the city of New York, and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. All other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, including all judicial officers holding courts of special sessions, magistrates' courts, or other inferior local courts of criminal jurisdiction in the city of New York, shall be chosen by the electors of such cities, or appointed by some local authorities thereof as may be prescribed by law. The boards of supervisors, or other officials exercising power now vested in such boards, may fix the compensation to be paid or allowed to justices of the peace for their services in criminal matters.

Other
judicial
officers
in cities.

Compensation
of
justices of
the peace
in criminal
matters.

Inferior
local
courts.

SECTION 18. Inferior local courts of civil and criminal jurisdiction may be established by the legislature, but no such inferior local court which has been created since the first day of January, one thousand eight hundred and ninety-five, or is hereafter created shall be a court of record. All inferior local courts now or hereafter established may be regulated or discontinued by the legislature. Except as herein provided, the legislature shall not hereafter confer upon any inferior or local court of its creation any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon county courts by or under this article; but it may provide that the territorial jurisdiction in civil cases of any inferior or local court now existing or hereafter established in any city or of justices of the peace in cities shall extend throughout the county or counties in which such city may be located. Courts of special sessions and inferior local courts of similar character shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law, and the legislature may authorize them to try such offenses without a jury.

The legislature may establish children's courts, and courts of domestic relations, as separate courts, or as parts of existing courts or courts hereafter to be created, and may confer upon them such jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and to compel the support of a wife, child or poor relative by persons legally chargeable therewith who abandon or neglect to support any of them. In conferring such jurisdiction the legislature shall provide that whenever a child

Children's
courts.

Concurrent Resolutions

is committed to an institution or is placed in the custody of any person by parole, placing out, adoption or guardianship, it shall be so committed or placed, when practicable, to an institution governed by persons, or in the custody of a person, of the same religious persuasion as the child. In the exercise of such jurisdiction such courts may hear and determine such causes with or without a jury, except those involving a felony.

Judicial
officers;
compensa-
tion, how
chosen,
eligibility,
 restric-
tions, etc.

SECTION 19. All judges, justices and surrogates shall receive for their services such compensation as is now or may hereafter be established by law, provided only that such compensation shall not be diminished during their respective terms of office. Except as in this article provided, all judicial officers shall be elected or appointed at such times and in such manner as the legislature may direct. No one shall be eligible to the office of judge of the court of appeals, justice of the supreme court, surrogate, or judge of any other court of record who is not an attorney and counselor of this state except in the county of Hamilton as to the office of county judge or surrogate. No judge or justice shall sit in any appellate court in review of a decision made by him or by any court of which he was at the time a sitting member. No person shall hold the office of judge or justice of any court or the office of surrogate longer than until and including the last day of December next after he shall be seventy years of age. The judges of the court of appeals and the justices of the supreme court shall not hold any other public office or trust, except that they shall be eligible to serve as members of a constitutional convention. All votes for any such judges or justices for any other than a judicial office or as a member of a constitutional convention, given by the legislature or the people, shall be void. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office. A judge of the court of appeals, a justice of the supreme court, a judge of the court of general sessions of the city of New York, a justice of the city court of the city of New York, and a county judge or surrogate elected in a county having a population exceeding one hundred and twenty thousand, shall not practice as an attorney or counselor in any court of record in this state nor act as referee in any action or proceeding. The legislature may impose a similar prohibition upon county judges or surrogates in other counties. No district attorney or assistant to or deputy of a district attorney shall appear or act as attorney or counsel for the defendant in any criminal case or proceeding in any court of the state, nor shall any county judge, special county judge, surrogate, or special surrogate appear or act as counsel for a defendant in any criminal case or proceeding pending in his own county or in any adjacent county.

District
attorneys
and certain
judges not
to act as
counsel for
defendant
in criminal
proceedings.

Legislature
to provide
for speedy
disposition
of cases.

SECTION 20. It shall be the duty of the legislature and the courts to promote the speedy trial of all criminal and civil cases and the prompt disposition of all questions submitted to the

Concurrent Resolutions

courts for decision. In order that the state may avail itself of the services of former judges of long judicial experience, who are still competent to perform substantial judicial services, the offices of state referee and local referee are hereby created. The qualifications, appointment, powers, duties and compensation of such referees, who must have served as judges in the courts of the state for at least ten years, shall be regulated by law.

State referees may be empowered to perform their duties in any county; but local referees shall not be empowered to exercise any duties beyond the territorial jurisdiction of the local court in which they shall have last served. The legislature may provide that the respective appellate divisions of the supreme court may assign a state referee to hold any term of the supreme court.

The former judges of the court of appeals and former justices of the supreme court who have heretofore been appointed and are now serving as referees or official referees under existing provisions of law shall hereafter be known and serve as state referees, and all other official referees now serving shall hereafter be known and serve as local referees. Until otherwise provided by law, said referees shall perform the duties and receive the compensation now provided by law.

No state or local referees shall appear as an attorney or counselor in any court in this state while serving as such referee, and any such referee whether heretofore or hereafter appointed shall be removable as may be provided by the legislature by general law.

SECTION 21. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised. The legislature, however, shall not amend the civil practice acts or alter civil procedure in courts of record unless the governor shall certify to it that the proposed amendment or alteration is in his judgment immediately advisable or necessary, with his reasons therefor; but, without such certification, the legislature may amend or alter the civil practice acts or the civil procedure in said courts, provided that any such proposed amendment or alteration be first proposed by one legislature and then referred to the legislature to be chosen at the next general election of members of the assembly and published in the official publication of the session laws under the title of "Proposed Civil Practice Amendment or Amendments," as the case may be, whereupon the legislature as so next constituted shall have power to pass any such proposed amendment or alteration, subject to the same conditions as apply to other general legislation under article III of this constitution.

SECTION 22. The clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep

State
referees and
local
referees.

Proceedings
in law and
equity.

Amendment
of civil
practice
and altera-
tion of civil
procedure
in courts
of record,
how
effected.

Clerks of
courts.

Concurrent Resolutions

his office at the seat of government. The clerk of the court of appeals and the clerks of the appellate divisions shall receive such compensation as may be established by law which shall be paid out of the state treasury.

Publication
of statutes.

Publication
of court
decisions.

SECTION 23. The legislature shall provide for the speedy publication of all statutes and all civil or criminal practice acts and rules, and for the collection, compilation and publication annually of the civil and criminal judicial statistics of the state. It shall further provide for the creation of a state law reporting bureau, which shall be under the direction and control of an official state reporter, who shall be appointed and be removable by the court of appeals, and who shall be charged with the duty, as may be provided by law and directed by said court, of publishing official reports of the opinions or decisions of all the courts of the state. But all laws and judicial opinions or decisions shall nevertheless be free for publication by any person.

Commis-
sioners of
jurors.

SECTION 24. The commissioners of jurors now in office shall hold their offices until the expiration of their respective terms. The legislature may provide for the appointment of a commissioner of jurors in any county; but in a county in the first and second judicial districts, such appointment, if authorized, shall be made by the respective appellate divisions of the supreme court embracing those districts, and, in any other county by the county judge and surrogate thereof and the justice or justices of the supreme court resident therein, if any. The legislature shall define the duties of commissioners of jurors and fix their terms of office and compensation, which shall be a county charge.

Boards or
courts of
claims.

SECTION 25. Nothing in this article contained shall abridge the authority of the legislature to create or abolish any board or court with jurisdiction to hear and audit or determine claims against the state, and any such tribunal existing when this article shall take effect shall be continued with the powers then vested in it until otherwise provided by law.

Referred to
legislature
chosen at
next elec-
tion of
senators.

§ 2. Resolved (if the Assembly concur), that the foregoing amendments be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN SENATE, Mar. 16, 1922.
The foregoing resolution was duly
passed, a majority of all the Senators
elected voting in favor thereof.

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 17, 1922.
The foregoing resolution was duly
passed, a majority of all the Members
elected to the Assembly voting in favor
thereof.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

Concurrent Resolutions

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to section seven of article seven of the constitution, in relation to the forest preserve. Proposed amendment to art. 7, § 7.

Section 1. Resolved (if the Assembly concur), That section seven of article seven of the constitution be amended to read as follows:

§ 7. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed. Nothing contained in this section shall prevent the state from constructing a state highway from Saranac lake in Franklin county to Long lake in Hamilton county and thence to Old Forge in Herkimer county by way of Blue Mountain lake and Racquette lake. Forest preserve.
Highway within.

The legislature may by general laws provide for the use¹ of such lands for the construction and maintenance of reservoirs for municipal water supply, for the canals of the state and to regulate the flow of streams. Such reservoirs shall be constructed, owned and controlled by the state, but such work shall not be undertaken until after the boundaries and high flow lines thereof shall have been accurately surveyed and fixed, and after public notice, hearing and determination that such lands are required for such public use. The expense of any such improvements shall be apportioned on the public and private property and municipalities benefited to the extent of the benefits received. Any such reservoir shall always be operated by the state and the legislature shall provide for a charge upon the property and municipalities benefited for a reasonable return to the state upon the value of the² property of the state used and the expenses³ of the state incurred in the operation of said reservoirs,⁴ which shall be fixed for terms of not exceeding ten years and be readjustable at the end of any term. Storage reservoirs within.

⁵The legislature may also provide by general laws for the use of such lands for the development of water power for the public benefit, and for the construction, maintenance and operation thereon of ponds, structures, conduits and appurtenances necessary for that purpose, but such work shall not be undertaken until after the boundaries and high flow lines thereof shall have been accurately surveyed and fixed, and after public notice, hearing and determination that such lands are required for such public use. Development of water power.

⁶Such power shall not be used for manufacturing or business purposes on state lands within the forest preserve. ⁷Such development may be by the state, or by a lessee of the state, under

¹ Words "of not exceeding three per centum" omitted.

² Words "rights and" omitted.

³ Word "expenses" substituted for word "services."

⁴ Words "incurred in the operation of said reservoirs" substituted for word "rendered."

⁵ Following sentence new.

Concurrent Resolutions

a lease for a term not exceeding fifty years to be secured pursuant to law on such terms as will best protect the public interest, and transmission lines may also be constructed, maintained and operated on such lands by the state, or by such a lessee of the state, on like terms. ⁵Such works shall not be constructed or operated except under state supervision and regulation. ⁶Such lands may also be used when authorized by law for the relocation of existing highways destroyed or made non-usable by the construction of such storage reservoirs or such water power development. ⁷Not more than three per centum of the forest preserve shall be used for all the purposes provided for by law under this section. Unsanitary conditions shall not be created or continued by any such public works. A violation of any of the provisions of this section may be restrained at the suit of the people, or, with the consent of the supreme court in appellate division, on notice to the attorney-general at the suit of any citizen.

Referred to
legislature
chosen at
next elec-
tion of
senators.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN SENATE, Feb. 27, 1922.
The foregoing resolution was duly
passed, a majority of all the Senators
elected voting in favor thereof.
By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 15, 1922.
The foregoing resolution was duly
passed, a majority of all the Members
elected to the Assembly voting in favor
thereof.
By order of the Assembly,
H. E. MACHOLD,
Speaker.

Proposed
amendment
to art. 7.

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to article seven of the constitution, empowering the legislature to authorize by law the creation of a debt or debts to provide for the payment of bonuses to honorably discharged soldiers, sailors and marines of the World War.

§ 13 added.

Section 1. Resolved (if the Senate concur), That article seven of the constitution be amended by adding thereto a new section, to follow section twelve, to be section thirteen, to read as follows:

Creation of
debts for
payment of
bonuses to
veterans of
World War,
authorized.

§ 13. The legislature may authorize by law the creation of a debt or debts of the state to provide for the payment of bonuses to honorably discharged soldiers, sailors and marines of the World War who were actual residents of the state at the time of their enlistment or induction into the military service of the United States. An apportionment of the moneys on the basis of the periods of service of the respective beneficiaries shall be provided for by general laws. The aggregate of the debts authorized by this section shall not exceed forty-five million dollars. The provisions of this article, not inconsistent with this section, relating to the issuance of bonds for a debt or debts of the state and the

⁵ Following sentence new.

Concurrent Resolutions

maturity and payment thereof, shall apply to a debt or debts created pursuant to this section; except that the law authorizing the contracting of such debt or debts shall take effect without submission to the people pursuant to section four of this article.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

Referred to legislature chosen at next election of senators.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 15, 1922.
This bill was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly.

H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
IN SENATE, Mar. 17, 1922.
This bill was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,

JEREMIAH WOOD,
President.

CONCURRENT RESOLUTION of the Senate and Assembly proposing an amendment to article eight of the constitution, in relation to limitation of indebtedness of cities and counties.

Proposed amendment to art. 8.

Section 1. Resolved (if the Assembly concur), That article eight of the constitution be amended by inserting therein a new section, to be section ten-a, to read as follows:

§ 10a added.

§ 10-a. The debt limitation of a city or county, or the limitation on the amount which the city or county is authorized to raise annually for city or county purposes, as prescribed by section ten of this article, shall not be affected by reason of a change in the system of taxation or in the definition of real estate or real property, whereby real estate then subject to taxation in such city or county shall be exempted from taxation or be taxed otherwise than on its assessment-rolls; but the valuation of such real estate as it last appeared on such assessment-rolls shall continue to be a part of the base on which the debt limitation, or on which the limitation on the amount which the city or county is authorized to raise annually for city or county purposes, shall be calculated. The legislature in its discretion may confer appropriate jurisdiction on the appellate divisions in the several judicial departments for the purpose of determining the real estate in any city or village, which is so exempted or otherwise taxed, and the value thereof.

Limitation not affected by change in system of taxation or exemption of real estate.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

Referred to legislature chosen at next election of senators.

STATE OF NEW YORK,
IN SENATE, Mar. 17, 1922.
The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof.

By order of the Senate,

JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 17, 1922.
The foregoing resolution was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof.

By order of the Assembly,

H. E. MACHOLD,
Speaker.

Concurrent Resolutions

Proposed
amendment
to art. 12.

CONCURRENT RESOLUTION of the Senate and Assembly proposing amendments to article twelve of the constitution, relating to cities and villages, so as to regulate legislation concerning them and guarantee to them the right of municipal self-government.

Section 1. Resolved (if the Assembly concur), That article twelve of the constitution be hereby amended to read as follows:

ARTICLE XII.

Organiza-
tion of
cities and
villages;
powers of
legislature.

§ 1.¹ It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the state or by any county, city, town, village or other civil division of the state, or by any contractor or subcontractor performing work, labor or services for the state, or for any county, city, town, village or other civil division thereof.

Enactment
of local or
special
laws for
cities, re-
stricted.

§ 2.² The legislature shall not pass any law relating to the property, affairs or government of cities, which shall be special or local either in its terms or in its effect, but shall act in relation to the property, affairs or government of any city only by general laws which shall in terms and in effect apply alike to all cities except on message from the governor declaring that an emergency exists and the concurrent action of two-thirds of the members of each house of the legislature.

Powers of
cities to
adopt and
amend local
laws.

§ 3.³ Every city shall have power to adopt and amend local laws not inconsistent with the constitution and laws of the state, relating to the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all officers and employees of the city, the transaction of its business, the incurring of its obligations, the presentation, ascertainment and discharge of claims against it, the acquisition, care, management and use of its streets and property, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it, and the government and regulation of the conduct of its inhabitants and the protection of their property, safety and health. The legislature shall, at its next session after this section shall become part of the constitution, provide by general law for carrying into effect the provisions of this section.

¹ Section 1 not amended.

² Section 2 new.

³ Section 3 new.

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§ 4.⁴ The provisions of this article shall not be deemed to restrict the power of the legislature to enact laws relating to matters other than the property, affairs or government of cities.

Extent of restriction of powers of legislature.

§ 5.⁵ The legislature may by general laws confer on cities such further powers of local legislation and administration as it may, from time to time, deem expedient.

Legislature may confer further powers on cities.

§ 6.⁶ All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five, whose successors have not then been elected, which under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to elections of any judicial officer, except judges and justices of inferior local courts.

Election of officers in cities.

Expiration of terms.

§ 7.⁷ The provisions of this article shall not affect any existing provision of law; but all existing charters and other laws shall continue in force until repealed, amended, modified or superseded in accordance with the provisions of this article. Nothing in this article contained shall apply to or affect the maintenance, support, or administration of the public school systems in the several cities of the state, as required or provided by article nine of the constitution.

Existing charters and laws, and public school systems not affected.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution, be published for three months previous to the time of such election.

Referred to legislature chosen at next election of senators.

STATE OF NEW YORK,
IN SENATE, Mar. 17, 1922.
The foregoing resolution was duly passed, a majority of all the Senators elected voting in favor thereof.

By order of the Senate,

JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY, Mar. 17, 1922.
The foregoing resolution was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof.

By order of the Assembly,

H. E. MACHOLD,
Speaker.

⁴ Former § 2 materially amended.

⁵ Section 5 new.

⁶ Former § 3.

⁷ Words "to any city of the third class, or" omitted.

⁸ Section 7 new.

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that county. The legislature may in its discretion authorize the election of one or more additional justices of said court in any county within the city of New York. The justices hereafter elected shall receive from the city of New York such compensation as may be fixed by law.

Presiding
justice.

The justices of the city court of the city of New York shall choose one of their number to be the presiding justice thereof, who shall act as such during his term of office, and who shall be charged with the general administration of the court and the assignment of the justices to hold the terms thereof, subject to such regulations as the presiding justices of the appellate divisions of the supreme court in the first and second departments shall from time to time prescribe. The justices of said city court shall have power to appoint and remove a chief clerk of the court, and one or more deputy clerks in each county, who shall keep their respective office or offices at a place or places to be designated by the court, and whose duties shall be regulated and supervised by the presiding justice of the court.

Chief clerk
and deputy
clerks.

Transfer of
proceedings
pending in
county
courts.

All civil actions or proceedings pending on said first day of January in the county courts of the counties of Kings, Bronx, Queens and Richmond, respectively, are hereby transferred to the city court of the city of New York for hearing and determination at terms held within the counties in which the same shall be pending, and, for the purpose only of such hearing and determination and the enforcement of the judgments rendered thereon, said city court shall have and exercise the equity jurisdiction previously vested in the respective county courts from which such cases are so transferred, but not otherwise. Until the legislature shall otherwise provide, the clerk of the city court of the city of New York and the chief clerk of the county court in each of the counties of Kings, Bronx, Queens and Richmond, shall severally act within his county as a deputy clerk of the city court of the city of New York, and the presiding justice of the court shall make such rules and regulations respecting the clerks' offices, the assignment of secretaries to the justices, court clerks, stenographers, interpreters and other attendants and the distribution of the business of the court in the said several counties as from time to time may be expedient, subject to such general regulations as the presiding justices of the appellate divisions of the first and second departments shall from time to time prescribe.

Clerks, etc.

Vacancies
in certain
judicial
offices, how
filled.

SECTION 16. Vacancies occurring in the office of county judge, special county judge, surrogate, special surrogate, judge of the court of general sessions of the city of New York, or justice of the city court of the city of New York, shall be filled in the same manner as vacancies occurring in the supreme court.

Justices of
the peace
and district
or municipal
court
justices.

SECTION 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term,

Concurrent Resolutions

they shall hold for the remainder of the unexpired term. Their number, classification and duties shall be regulated by law. Justices of the peace and district or municipal court justices may be elected in the several cities of this state in such manner and with such powers and for such terms, respectively, as are or may be prescribed by law. Justices of the peace, justices of the municipal court of the city of New York, and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. All other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, including all judicial officers holding courts of special sessions, magistrates' courts, or other inferior local courts of criminal jurisdiction in the city of New York, shall be chosen by the electors of such cities, or appointed by some local authorities thereof as may be prescribed by law. The boards of supervisors, or other officials exercising power now vested in such boards, may fix the compensation to be paid or allowed to justices of the peace for their services in criminal matters.

Other
judicial
officers
in cities.

Compensation of
justices of
the peace
in criminal
matters.

Inferior
local
courts.

SECTION 18. Inferior local courts of civil and criminal jurisdiction may be established by the legislature, but no such inferior local court which has been created since the first day of January, one thousand eight hundred and ninety-five, or is hereafter created shall be a court of record. All inferior local courts now or hereafter established may be regulated or discontinued by the legislature. Except as herein provided, the legislature shall not hereafter confer upon any inferior or local court of its creation any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon county courts by or under this article; but it may provide that the territorial jurisdiction in civil cases of any inferior or local court now existing or hereafter established in any city or of justices of the peace in cities shall extend throughout the county or counties in which such city may be located. Courts of special sessions and inferior local courts of similar character shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law, and the legislature may authorize them to try such offenses without a jury.

The legislature may establish children's courts, and courts of domestic relations, as separate courts, or as parts of existing courts or courts hereafter to be created, and may confer upon them such jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and to compel the support of a wife, child or poor relative by persons legally chargeable therewith who abandon or neglect to support any of them. In conferring such jurisdiction the legislature shall provide that whenever a child

Children's
courts.

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is committed to an institution or is placed in the custody of any person by parole, placing out, adoption or guardianship, it shall be so committed or placed, when practicable, to an institution governed by persons, or in the custody of a person, of the same religious persuasion as the child. In the exercise of such jurisdiction such courts may hear and determine such causes with or without a jury, except those involving a felony.

Judicial
officers;
compensa-
tion, how
chosen,
eligibility,
restrictions,
etc.

SECTION 19. All judges, justices and surrogates shall receive for their services such compensation as is now or may hereafter be established by law, provided only that such compensation shall not be diminished during their respective terms of office. Except as in this article provided, all judicial officers shall be elected or appointed at such times and in such manner as the legislature may direct. No one shall be eligible to the office of judge of the court of appeals, justice of the supreme court, surrogate, or judge of any other court of record who is not an attorney and counselor of this state except in the county of Hamilton as to the office of county judge or surrogate. No judge or justice shall sit in any appellate court in review of a decision made by him or by any court of which he was at the time a sitting member. No person shall hold the office of judge or justice of any court or the office of surrogate longer than until and including the last day of December next after he shall be seventy years of age. The judges of the court of appeals and the justices of the supreme court shall not hold any other public office or trust, except that they shall be eligible to serve as members of a constitutional convention. All votes for any such judges or justices for any other than a judicial office or as a member of a constitutional convention, given by the legislature or the people, shall be void. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office. A judge of the court of appeals, a justice of the supreme court, a judge of the court of general sessions of the city of New York, a justice of the city court of the city of New York, and a county judge or surrogate elected in a county having a population exceeding one hundred and twenty thousand, shall not practice as an attorney or counselor in any court of record in this state nor act as referee in any action or proceeding. The legislature may impose a similar prohibition upon county judges or surrogates in other counties. No district attorney or assistant to or deputy of a district attorney shall appear or act as attorney or counsel for the defendant in any criminal case or proceeding in any court of the state, nor shall any county judge, special county judge, surrogate, or special surrogate appear or act as counsel for a defendant in any criminal case or proceeding pending in his own county or in any adjacent county.

District
attorneys
and certain
judges not
to act as
counsel for
defendant
in criminal
proceedings.

Legislature
to provide
for speedy
disposition
of cases.

SECTION 20. It shall be the duty of the legislature and the courts to promote the speedy trial of all criminal and civil cases and the prompt disposition of all questions submitted to the

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courts for decision. In order that the state may avail itself of the services of former judges of long judicial experience, who are still competent to perform substantial judicial services, the offices of state referee and local referee are hereby created. The qualifications, appointment, powers, duties and compensation of such referees, who must have served as judges in the courts of the state for at least ten years, shall be regulated by law.

State
referees and
local
referees.

State referees may be empowered to perform their duties in any county; but local referees shall not be empowered to exercise any duties beyond the territorial jurisdiction of the local court in which they shall have last served. The legislature may provide that the respective appellate divisions of the supreme court may assign a state referee to hold any term of the supreme court.

The former judges of the court of appeals and former justices of the supreme court who have heretofore been appointed and are now serving as referees or official referees under existing provisions of law shall hereafter be known and serve as state referees, and all other official referees now serving shall hereafter be known and serve as local referees. Until otherwise provided by law, said referees shall perform the duties and receive the compensation now provided by law.

No state or local referees shall appear as an attorney or counselor in any court in this state while serving as such referee, and any such referee whether heretofore or hereafter appointed shall be removable as may be provided by the legislature by general law.

SECTION 21. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised. The legislature, however, shall not amend the civil practice acts or alter civil procedure in courts of record unless the governor shall certify to it that the proposed amendment or alteration is in his judgment immediately advisable or necessary, with his reasons therefor; but, without such certification, the legislature may amend or alter the civil practice acts or the civil procedure in said courts, provided that any such proposed amendment or alteration be first proposed by one legislature and then referred to the legislature to be chosen at the next general election of members of the assembly and published in the official publication of the session laws under the title of "Proposed Civil Practice Amendment or Amendments," as the case may be, whereupon the legislature as so next constituted shall have power to pass any such proposed amendment or alteration, subject to the same conditions as apply to other general legislation under article III of this constitution.

Proceedings
in law and
equity.

Amendment
of civil
practice
and altera-
tion of civil
procedure
in courts
of record,
how
affected.

SECTION 22. The clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep

Clerks of
courts.

TABLES OF LAWS
AMENDED OR REPEALED

STATEMENT OF OPTIONAL
CITY CHARTERS ADOPTED

TABLE OF LEGALIZING ACTS

1879

THE UNIVERSITY

OF CALIFORNIA

LIBRARY

OF THE

STATE OF CALIFORNIA

TABLES

OF

LAWS AMENDED OR REPEALED

I. CHANGES IN THE CONSOLIDATED LAWS, 1921, 1922.*

(Sections, etc., are amended unless it is otherwise indicated.)

Section	SUBJECT	Year	Chapter	Page
AGRICULTURAL LAW: (L. 1909, ch. 9, constituting cons. laws, ch. 1.)				
98	Physical examination of cattle.....	1921	262	965
106	Payments for animals killed.....	1921	262	965
107, subd. 6	Compensation of owners.....	1921	262	966
107, subd. 7, repealed	Compensation of owners.....	1921	262	967
132	Licensing of dogs.....	1921	628	1953
139d	Licensing of dogs.....	1921	628	1954
139h	Licensing of dogs.....	1921	628	1957
139n, added	Licensing of dogs; enforcement by village authorities.	1921	628	1958
160, 163	Concentrated commercial feeding stuffs.....	1921	15	19
262, subd. 2d	Adulterated apples.....	1921	349	1131
300a	Bees; assessors to report owners; transportation regulated.....	1921	278	992
322, added	Certificates of registry, pure-bred domestic animals.....	1921	44	127
All repealed	.....	1922	48	209
ARBITRATION LAW: (L. 1920, ch. 275, constituting cons. laws, ch. 72.)				
2	Validity of arbitration agreements.....	1921	14	18
8	Application of code of civil procedure and civil practice act.....	1921	14	19
BANKING LAW: (L. 1914, ch. 369, constituting cons. laws, ch. 2, superseding L. 1909, ch. 10.)				
Art. 1, title	Short title; definitions; miscellaneous provisions.....	1922	620	1666
3, added	Information to be given poor authorities.....	1922	620	1666
16, repealed	Retirement of deputies, clerks and examiners.....	1921	568	1711
39a	National banks acting in fiduciary capacity.....	1921	38	106
104, subd. 4, last paragraph, made subds. 5, 6, and amended	Property of national bank vested in state bank.....	1921	20	83

*For changes in consolidated laws, 1909-1920, see Supplement to the statutory record of the consolidated laws, 1920.

I. CHANGES IN THE CONSOLIDATED LAWS, 1921, 1922 — (Continued).

Section	SUBJECT	Year	Chapter	Page
BANKING LAW — (Continued).				
106, subd. 5	Powers of banks.....	1921	242	928
108, subd. 4,	Restrictions on loans.....	1922	410	857
subd. (d)	Rate of interest; effect of usury.....	1922	623	1668
114	Private bankers; transmission of money.....	1921	351	1132
167	Private bankers; receipt for money received.....	1921	351	1133
168	Private bankers; violations.....	1921	350	1131
172	Trust companies; restrictions on investments of capital	1922	621	1666
193				
238, subd. 10,	Power of savings banks to receive money for trans-			
added	mission.....	1921	177	741
239, subd. 8,	Savings banks; powers.....	1922	154	468
¶ (d)				
239, subd. 10a,	Savings banks; investment of deposits.....	1922	621	1667
added				
256, subd. 4,	Savings banks; declaration of dividends.....	1922	130	430
¶ (c)				
267, subd. 1,	Savings banks; powers of trustees.....	1922	216	539
¶ (a)				
293, subd. 1a	Investment companies; powers of.....	1921	49	131
293, subd. 7,	Investment companies; powers.....	1922	622	1668
added	Savings and loan associations; power to borrow.....	1922	357	759
388				
395, new para-	Savings and loan associations; dividends.....	1921	75	273
graph, added				
397, new para-	Savings and loan associations; withdrawal of un-			
graph, added	pledged shares.....	1921	76	274
403	Savings and loan associations; change of location....	1921	352	1134
409a, added	Savings and loan associations; pensions.....	1921	78	276
473	Credit unions; amendment of by-laws.....	1922	304	688
BENEVOLENT ORDERS LAW:				
(L. 1909, ch. 11, constituting cons. laws, ch. 3.)				
2, subds. 27,	Knights of Malta and Dames of Malta.....	1922	60	227
28, added	Joint corporations.....	1922	60	227
7	Joint corporations; trustees.....	1921	690	2442
8				
BUSINESS CORPORATIONS LAW:				
(L. 1909, ch. 12, constituting cons. laws, ch. 4.)				
26	Cooperative associations; incorporation.....	1921	359	1146
30	Cooperative associations; stock and stockholders.....	1921	359	1146
32	Cooperative associations; stock in other corporations.	1921	359	1146
34	Cooperative associations; earnings and dividends.....	1921	359	1147

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Section	SUBJECT	Year	Chapter	Page
	CANAL LAW: (L. 1909, ch. 13, constituting cons. laws, ch. 5.)			
15, subd. 10, repealed	Powers of canal board.....	1921	579	1755
16, in part, repealed	Erections for commercial or manufacturing purposes.....	1921	579	1755
120	Alteration of roads.....	1921	235	909
	CITY LOCAL OPTION LAW: (L. 1917, ch. 624, constituting cons. laws, ch. 68.)			
All repealed	.....	1921	155	512
	CIVIL RIGHTS LAW: (L. 1909, ch. 14, constituting cons. laws, ch. 6.)			
16 added	Recovery of damages for illegal sale of intoxicating liquor.....	1921	157	521
51	Exhibition of photographs.....	1921	501	1550
	CIVIL SERVICE LAW: (L. 1909, ch. 15, constituting cons. laws, ch. 7.)			
11	Classified city service.....	1921	653	2023
11	Classified city service.....	1922	440	926
15, subd. 4, added	Appointment of employees to positions formerly held by them.....	1922	493	1115
16	Promotion; transfer; reinstatement; reduction.....	1922	131	431
21a	Civil war veterans; retirement, pensions.....	1921	54	234
21b, added	Civil war veterans; retirement, pensions.....	1921	159	523
21b, added	Preference to veterans.....	1921	702	2483
22b	Reinstatement of persons in military, naval or marine service.....	1921	652	2021
22d, added	Civil service status of soldiers, sailors and marines.....	1921	654	2026
50, subd. 8	State retirement system; definitions.....	1921	365	1160
50, subd. 8	State retirement system; definitions.....	1922	592	1511
53, subd. 5	State retirement system; allowances.....	1921	365	1161
58, subd. 1	State retirement system; funds.....	1922	592	1511
61, subd. 3, added	State retirement system; refunds.....	1921	365	1161
61, subd. 4, added	State retirement system; refunds.....	1922	592	1513
62	State retirement system; superannuation.....	1921	207	852
62, subd. 2	State retirement system; superannuation.....	1922	592	1513
64	State retirement system; disability.....	1921	365	1161
68	State retirement system; options.....	1922	592	1514
71a, added	State retirement system; eligibility of beneficiary for office.....	1921	207	852

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Section	SUBJECT	Year	Chapter	Page
	CIVIL SERVICE LAW — (Continued).			
73, added	State retirement system; transfer of members between systems.....	1922	592	1514
Art. 5 (§§ 75-80), added	Retirement of officers and employees in county and city service.....	1922	591	1509
Art. 5, renumbered art. 6	Laws repealed; when to take effect.....	1922	591	1509
	CONDEMNATION LAW: (L. 1920, ch. 923, constituting cons. laws, ch. 73; former ch. 71 thus renumbered by L. 1921, ch. 150.)			
14	Duties and powers of commissioners.....	1922	221	543
	CONSERVATION LAW: (L. 1911, ch. 647, constituting cons. laws, ch. 65, superseding forest, fish and game law, L. 1909, ch. 24, constituting cons. laws, ch. 19.)			
2	Conservation department; office and official force....	1921	499	1521
2, subd. 2	Conservation department; office and official force....	1922	413	860
3	Conservation department; office and official force....	1921	499	1523
4	Conservation department; divisions.....	1921	499	1523
21, repealed	Systematic plan.....	1921	499	1524
21, added	Systematic plan.....	1921	499	1524
22	Structures for impounding water; inspection of docks; penalties.....	1921	499	1524
23	Actions to recover penalties.....	1921	499	1525
34	Aliens; search warrants; when issued.....	1922	381	803
36	Compromise of civil penalty before magistrate.....	1921	328	1075
36	Compromise of civil penalty before magistrate.....	1922	381	803
37	Certificate by court or justice.....	1922	381	804
50, subd. 15, repealed	Powers of commission to survey, map and determine boundaries of state lands.....	1921	499	1526
50, subd. 32	Cuba reservation.....	1922	82	254
50, subd. 34, added	Federal co-operation in fire protection.....	1922	42	60
51, subds. 13, 14	Fire fighters; compensation.....	1922	157	470
52, subd. 1	Fire districts.....	1922	35	35
53, subd. 3	Fire moneys and accounts.....	1922	35	36
59, subds. 6, 7	Appropriation of real property.....	1921	206	850
151, repealed	Fish culturist.....	1921	328	1076
160	Publication of laws relating to fish and game.....	1921	668	2051
165	Game protectors; number and designation.....	1921	328	1076
169	Game protectors; powers.....	1921	328	1077
170	Records and reports.....	1921	328	1078
172	Powers of sheriffs and constables.....	1921	328	1078

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CONSERVATION LAW — (Continued).				
176	Fish and game; restrictions.....	1922	381	805
177, subd. 3	Wild fowl.....	1922	311	694
177a, added	Otter trawls or beam trawls prohibited.....	1921	254	954
181	Possession; presumptive evidence of unlawful taking.....	1922	381	805
182, subd. 5	Penalties; fish and game.....	1921	466	1362
183	Damage to fences on private lands.....	1921	466	1363
184, added	Forfeiture of firearms.....	1922	381	806
185, subd. 1	Licenses; hunting and trapping. (See footnote L. 1922, p. 806.).....	1922	381	806
185, subd. 2	Licenses; hunting and trapping; application; penalties.....	1922	381	806
185, subd. 3	Licenses; hunting and trapping; fees.....	1922	381	807
185, subd. 4	Licenses; hunting and trapping; fees of county clerks.....	1922	36	36
185, subd. 5	Licenses; hunting and trapping; contents; power under.....	1922	381	807
185, subd. 6	Licenses; hunting and trapping; carrying and exhibiting licenses.....	1922	37	37
185, subd. 15, repealed	Licenses; hunting and trapping; county clerks reimbursed for expenses.....	1922	36	37
190, subd. 2	Deer; open season, etc.....	1921	77	275
192a, added	Deer; open season, Washington county.....	1921	632	1962
193a	Training of dogs.....	1922	158	471
195, subd. 1	Squirrels; open season.....	1921	212	880
195, subd. 1	Squirrels; open season.....	1922	120	415
196, subd. 1	Hares and rabbits; open season.....	1921	496	1517
198	Mink; raccoon; sable; open season.....	1922	116	411
201	Muskrat; open season.....	1921	258	960
201	Muskrat; open season.....	1922	525	1197
211, subd. 1	Water fowl; open season.....	1922	380	802
211, subd. 3	Water fowl; taking.....	1922	101	277
212, subd. 2	Water fowl; open season; taking.....	1921	185	751
212, subd. 2	Water fowl; open season; taking.....	1921	548	1675
212, subd. 2	Water fowl; open season; taking.....	1922	101	277
212, subd. 3, added	Water fowl; use of decoys.....	1921	282	996
212, subd. 3	Water fowl; restriction of use of decoys.....	1922	310	694
214, subd. 2	Grouse or partridge; open season; limit.....	1922	439	925
214, subd. 3	Wild pheasants; open season, etc.....	1921	498	1520
214, subd. 3	Wild pheasants; open season, etc.....	1922	492	1114
215a, added	Upland game birds; open season.....	1922	308	692
216, subd. 1	Woodcock; open season.....	1921	228	901
236, subd. 1	Pike perch; open season; size limit; sale.....	1921	553	1681
237	Pickering and pike; open season, size limit; sale.....	1921	631	1961
237a, added	Great northern pike in Lake Champlain and Lake George.....	1921	279	993
239	Muskalonge; open season; size limit; sale.....	1921	500	1549
241a	Lake George, open seasons, special.....	1921	279	993
255a	Taking certain non-game fish.....	1922	147	454
256	Eel weirs and eel pots.....	1922	252	608
258, added	Fish preserves in Chautauqua lake.....	1922	510	1150
271	Fish taken with nets.....	1922	293	677
272, subds. 3, 4, added	Nets and netting.....	1922	159	471
276, repealed	Nets in Lakes Erie and Ontario.....	1921	281	995
276, added	Nets in Lakes Erie and Ontario.....	1921	281	996
279	Nets in Hudson and Delaware rivers.....	1922	159	472

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282	Illegal nets; destruction.....	1922	146	453
290	Notice of construction of dam.....	1921	499	1526
291	Fishways; penalties.....	1921	499	1526
325	Polluting waters.....	1922	552	1279
361	Private parks; notices.....	1921	466	1364
361	Private parks; notices.....	1922	309	693
362	Private lands not parks; protection.....	1921	466	1364
363, added	Private lands; trespass.....	1921	79	277
363, added	Private lands; forms of consent to hunt and fish.....	1921	466	1364
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233	Salaries and expenses of county judges.....	1921	141	467
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1172	Supreme court library at Utica.....	1921	486	1504
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39	Committees other than state or county	1921	479	1454
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26, subd. 10	Secretary of state; fees.....	1921	131	379
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324	Mutual automobile insurance companies	1922	417	884
325	Mutual automobile insurance companies; dividends . .	1922	417	885
326	Mutual automobile insurance companies; assessments	1922	417	885
327	Mutual automobile insurance companies; reports . . .	1922	417	886
329, added	Mutual automobile insurance companies; approval of rates	1922	418	891
341	Mutual automobile casualty insurance companies . . .	1922	417	886
344	Mutual automobile casualty insurance companies . . .	1922	417	888

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Section	SUBJECT	Year	Chapter	Page
INSURANCE LAW — (Continued).				
345	Mutual automobile casualty insurance companies....	1922	417	889
346	Mutual automobile casualty insurance companies....	1922	417	890
347	Mutual automobile casualty insurance companies....	1922	417	890
350, added	Mutual automobile casualty insurance companies; approval of rates.....	1922	418	891
JOINT-STOCK ASSOCIATION LAW: (L. 1909, ch. 34, constituting cons. laws, ch. 29, title changed to general associations law by L. 1920, ch. 915.)				
JUDICIARY LAW: (L. 1909, ch. 35, constituting cons. laws, ch. 30.)				
6	Adjournment of court on non-appearance of judge....	1921	123	362
26	Kings, Bronx, Queens and Richmond counties; additional compensation to judges for attending drawing of jurors.....	1922	560	1291
56	State board of law examiners.....	1922	63	232
83	Power of appellate division as to calendars, etc.....	1922	390	820
88, subd. 1	Admission to and removal from practice by appellate division.....	1922	339	726
88, subd. 5	Attorneys; expenses of professional misconduct proceedings.....	1921	295	1017
93-95	Convention to establish rules of civil practice.....	1921	302	1026
117, repealed	Appellate division, second department; retirement of employees.....	1921	568	1711
118	Appellate division, third and fourth departments; retirement of employees.....	1921	416	1277
118, repealed	Appellate division, third and fourth departments; retirement of employees.....	1921	568	1711
148	Special and trial terms of supreme court.....	1921	123	362
161, subd. 1	Stenographers, fourth and sixth judicial districts....	1921	658	2032
161, subd. 3	Stenographers, certain counties.....	1921	674	2182
161, subd. 9, added	Stenographers, fourth and sixth judicial districts....	1921	658	2032
162	Appointment of temporary stenographer.....	1921	415	1276
168	Appointment of court officers, Richmond county....	1921	246	934
171, added	Classification of confidential attendants.....	1921	461	1358
172, added	Certain attendants to justices of supreme court....	1922	170	487
192	Publishing terms of county court.....	1921	417	1279
197, subd. 6, added	Stenographers, certain county courts.....	1921	4	4
271, subd. 4	Appellate division, first department; salary of confidential clerk.....	1922	558	1290
271, subd. 5	Appellate division, second department; salary of confidential opinion clerks.....	1922	559	1291
279, subd. 4	Fifth district; salaries of confidential clerks.....	1921	414	1275
279, subd. 9	Ninth judicial district; salaries of confidential clerks..	1922	557	1289
307	Appellate division; stenographers and confidential clerks, compensation.....	1921	481	1482
315	Stenographers before official referees; fees and expenses	1922	194	514
388	Temporary appointment of interpreters.....	1921	482	1483

I. CHANGES IN THE CONSOLIDATED LAWS, 1921, 1922—(Continued).

Section	SUBJECT	Year	Chapter	Page
JUDICIARY LAW — (Continued).				
390, added	Salary of interpreters of county court, Bronx county..	1921	639	1970
391, added	Westchester county, additional interpreter	1922	169	487
461	State board of law examiners	1921	187	753
476	Suspension of attorney on notice	1921	295	1017
536	Notification to jurors by sheriff	1921	123	363
544a, added	Excusing juror until subsequent day or term	1921	123	363
546, subd. 4	Qualifications of jurors	1921	703	2485
635, subd. 2	Exemption from jury duty	1921	703	2485
720, subd. 2	Exemption from jury duty	1921	703	2485
749h, subd. 1	Fees and mileage of trial jurors	1921	413	1274
LABOR LAW:				
(L. 1921, ch. 50, constituting cons. laws, ch. 31, superseding L. 1909, ch. 36.)				
[Note.—L. 1909, ch. 36 was repealed by L. 1921, ch. 50; §§ 200-202, 202a, 203-212 thereof were also repealed by L. 1921, ch. 121; and §§ 215-219, 219a-219g thereof were also repealed by L. 1922, ch. 615.]				
2, subd. 9	Definitions	1921	489	1508
2, subd. 12,	Definitions	1922	405	849
added	Officers and employees	1921	642	1974
18	Referees	1921	642	1975
19				
21, subd. 10,	Investigation of condition of aliens	1921	642	1975
added	General powers and duties of industrial board	1921	642	1975
27	Petition for review of rule or order	1921	642	1976
110, subds. 1, 2				
130, subds. 2, 3,	Employment of children under fourteen prohibited...	1921	386	1222
repealed	Employment of children between fourteen and sixteen	1921	386	1222
131	Employment certificates	1921	386	1222
132-141, repealed	Registers of children employed	1921	386	1222
143, repealed	Employment of children under sixteen	1921	386	1222
144, subd. 1	Physical examination of minor	1921	386	1223
145, subd. 2	Employment of males under eighteen and females...	1921	642	1977
146, subd. 8				
161, subd. 2,	Day of rest; employees in hotels	1921	671	2166
¶ e, added	Cash payment of wages	1921	642	1977
195	Public work; hours and wages	1921	642	1977
220, subd. 4	Building construction	1922	1	1
241, subd. 6	Fire wall	1921	642	1978
265, subd. 1	Manufacture in tenement houses; exceptions	1921	642	1978
351	Jurisdiction over mercantile and other establishments.	1921	642	1978
391, subd. 3				
Art. 16 (§§ 450-	Explosives	1922	421	898
463)				
Art. 17 (§§ 470-	Miscellaneous provisions; laws repealed; when to take	1922	405	849
475) renum-	effect	1921	642	1978
bered art. 18	Reappropriation of unexpended balances			
(§§ 500-505)				
473				
Art. 17 (§§ 470-	Public safety	1922	405	850
474), added				

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Section	SUBJECT	Year	Chapter	Page
LEGISLATIVE LAW: (L. 1909, ch. 37, constituting cons. laws, ch. 32.)				
26, repealed	Statement of appropriations.....	1921	336	1105
40	Concurrent resolutions; certificate of presiding officer.	1921	13	16
42	Deposit of laws and resolutions.....	1921	13	17
45	Publication of session laws.....	1921	13	17
48, repealed	Publication of session laws and concurrent resolutions	1921	467	1367
48, added	Publication of concurrent resolutions.....	1921	467	1367
LIEN LAW: (L. 1909, ch. 38, constituting cons. laws, ch. 33.)				
161, repealed	Liens for service of stallions or bulls; statement and certificate.....	1922	610	1565
230	Chattel mortgages.....	1921	419	1282
230a, added	Chattel mortgages on stocks of merchandise.....	1921	462	1358
230a	Chattel mortgages on stocks of merchandise.....	1922	137	444
LIQUOR TAX LAW: (L. 1909, ch. 39, constituting cons. laws, ch. 34.)				
All repealed	.....	1921	155	512
MEMBERSHIP CORPORATIONS LAW: (L. 1909, ch. 40, constituting cons. laws, ch. 35.)				
14	Changing number of directors.....	1921	577	1726
48	Place of annual meeting.....	1921	577	1727
204, 206	Co-operative agricultural, dairy or horticultural associations.....	1922	448	954
206a, added	Co-operative agricultural, dairy or horticultural associations.....	1922	447	953
209	Co-operative agricultural, dairy or horticultural associations.....	1922	448	955
316	Consumers' co-operative associations.....	1921	360	1148
330	Consumers' co-operative associations.....	1921	360	1148
MENTAL DEFICIENCY LAW: (L. 1919, ch. 633, constituting cons. laws, ch. 71.)				
22b, added	Reformatory at Napanoch converted into state institution for mental defectives.....	1921	483	1495
24	Procedure for commitment of mentally defective persons.....	1921	483	1495
24b-24g, added	Commitment to Napanoch.....	1921	483	1496
35	Habeas corpus.....	1921	483	1499
37	Discharge of state institution inmates and payment of expenses.....	1921	483	1499
38	Paroles.....	1921	483	1500

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Section	SUBJECT	Year	Chapter	Page
	MILITARY LAW: (L. 1909, ch. 41, constituting cons. laws, ch. 36.)			
Schedule of articles	.....	1921	588	1877
Art. 1, schedule of sections	Militia.....	1921	588	1877
1	Persons subject to military duty; exemptions.....	1921	588	1832
6	Commander-in-chief.....	1921	588	1832
7	Staff of governor.....	1921	588	1833
15	Relief from civil or criminal liability; security for costs	1921	588	1833
16, repealed	Adjutant-general.....	1921	588	1877
17	Adjutant-general.....	1921	588	1834
19	Adjutant-general; salary, assistants and employees...	1921	588	1837
19a	Veterans; pensions.....	1921	588	1838
21	Armory commissions.....	1921	588	1838
Art. 1a (§§ 26-29, 29a-29d), repealed	Military and disciplinary training.....	1921	211	858
Art. 2, schedule of sections	National guard.....	1921	588	1878
30	National guard; composition and strength.....	1921	588	1841
31	National guard; organisation and command.....	1921	588	1842
32	Aides.....	1921	588	1842
40	New York guard; organisation.....	1921	588	1842
43	New York guard; duties, privileges and immunities...	1921	588	1843
44	New York guard; command.....	1921	588	1844
Art. 3, schedule of sections	Naval militia.....	1921	588	1879
50	Naval militia; composition, strength, command.....	1921	588	1844
51	Naval militia; command.....	1921	588	1845
51	Naval militia; organisation and command.....	1921	595	1892
52, repealed	Naval militia; battalions.....	1921	588	1877
53, repealed	Naval militia; divisions.....	1921	588	1877
54, repealed	Naval militia; marine companies.....	1921	588	1877
55, repealed	Naval militia; disbandments.....	1921	588	1877
56	Naval militia; civilian cooks.....	1921	595	1892
57, repealed	Naval militia; retirement of commissioned officers...	1921	588	1877
57	Naval militia; retirement of commissioned officers...	1921	595	1893
60	Naval militia; salary of senior line officer.....	1921	588	1845
61	Naval militia; enlistment, transfer and discharge....	1921	588	1845
61	Naval militia; enlistment, transfer and discharge....	1921	595	1893
62, repealed	Naval militia; reserve.....	1921	595	1896
Art. 4, schedule of sections	National guard; commissioned officers.....	1921	588	1879
71	National guard; commissioned officers; eligibility....	1921	588	1845
72	National guard; commissioned officers; examinations.	1921	588	1847
73	National guard; commissioned officers; examining boards.....	1921	588	1848
74	National guard; commissioned officers; appointed officers.....	1921	588	1848
77	National guard; commissioned officers; reserve.....	1921	588	1849
77a, added	National guard; reserve.....	1921	588	1877
79	National guard; commissioned officers; retirement...	1921	588	1850
80	National guard; commissioned officers; examination and discharge.....	1921	588	1851
80a	National guard; reserve for enlisted men.....	1921	588	1852

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MILITARY LAW — (Continued).				
81	National guard; commissioned officers; dismissal or dropping from rolls.....	1921	588	1852
Art. 5, schedule of sections	Enlisted men.....	1921	588	1880
95	Enlistments.....	1921	588	1852
96	Enlistment papers.....	1921	588	1852
97	Transfers of enlisted men.....	1921	588	1853
98	Warrant officers; non-commissioned and petty officers.....	1921	588	1853
100	Restoration to duty of enlisted man.....	1921	588	1854
Art. 6, schedule of sections	Service of national guard and naval militia.....	1921	588	1880
110	Responsibility for efficiency for service.....	1921	588	1854
111	Drills and parades.....	1921	588	1854
112	Small arms practice.....	1921	588	1855
116	Insurrection or invasion.....	1921	588	1855
118	Excuses from duty.....	1921	588	1855
120, repealed	Naval militia; organization of depot battalions and units.....	1921	588	1877
121, repealed	Naval militia; organization when aiding civil authorities.....	1921	588	1877
131	Courts of inquiry.....	1921	588	1856
137	Warrants, subpoenas, attachments.....	1921	588	1856
143, repealed	Discharge for failure to pay fine.....	1922	195	515
143, added	Naval militia; military courts.....	1922	195	515
167	Responsibility for public property.....	1921	588	1856
168	Purchase of uniforms and equipments.....	1921	588	1858
Art. 9, schedule of sections	Armories.....	1921	587	1830
178	Funds for armory purposes.....	1921	588	1858
179	Armory commission to furnish armories.....	1921	588	1880
180	Armories and headquarters; how provided for or constructed.....	1921	588	1861
182	Headquarters for regiments and battalions.....	1921	588	1862
183	Armories in New York city.....	1921	588	1863
186	Control of armories.....	1921	587	1816
186a, added	Armory buildings; rules and regulations.....	1921	587	1817
186a, added	Armory buildings; rules and regulations.....	1921	586	1895
186b, added	Armory buildings; New York city.....	1921	587	1817
186b, added	Armory buildings.....	1921	585	1895
186b, repealed	Armory buildings; New York city.....	1922	285	679
186b, added	Armory buildings, New York city.....	1922	285	679
187	Armory employees.....	1921	587	1818
188	Laborers in armories and arsenals.....	1921	587	1818
188	Laborers in armories and arsenals.....	1921	585	1893
189	Compensation of employees in armories.....	1921	587	1820
190	Armorsers and employees for naval militia.....	1921	587	1821
190	Armorsers and employees for naval militia.....	1921	585	1895
192	Use of armories.....	1921	587	1822
193	Annual estimate for maintenance of armories.....	1921	587	1824
195	Armories; inventory of property; accountability.....	1921	588	1896
197, repealed	Armories; first estimate for maintenance.....	1921	588	1877
Art. 10, schedule of sections	Pay and allowances.....	1921	587	1831
210	Pay and allowances.....	1921	588	1866

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MILITARY LAW — (Continued).				
211	Pay of troops used in civil disorders.....	1921	588	1867
212	Pay of officers serving on boards and courts.....	1921	588	1868
215	Allowances for officers.....	1921	587	1826
216	Allowances for military organizations; military fund..	1921	587	1826
217	Audit and expenditure of funds.....	1921	587	1828
218	Allowances for headquarters.....	1921	587	1829
219	Allowances for expenses of headquarters, national guard.....	1921	587	1829
220	Pensions.....	1921	588	1869
223	Pay and allowances for injury in service.....	1921	588	1870
225	Reports of county treasurers; bonds for military funds.....	1921	588	1871
226	Interest on military funds.....	1921	588	1872
Art. 11, schedule of sections	Privileges, prohibitions and penalties.....	1921	588	1881
238	Exemption from jury duty.....	1921	588	1872
242	Separate companies and divisions.....	1921	588	1873
245, subd. 1	State or municipal employees on military duty.....	1921	588	1873
245, subd. 3, added	Compensation of state and municipal employees returning from military or naval duty.....	1921	589	1882
245, subd. 8	State or municipal employees on military duty.....	1921	590	1883
247	Conspicuous service crosses.....	1921	588	1874
Art. 12, schedule of sections	Miscellaneous provisions.....	1921	588	1881
252	Formation of associations.....	1921	588	1875
254	Rules and regulations.....	1921	588	1876
256, repealed	Customs and usages of United States army and navy..	1921	588	1877
256a	Duplicate service medals.....	1921	588	1876
PARTNERSHIP LAW:				
(L. 1919, ch. 408, constituting cons. laws, ch. 39, superseding L. 1909, ch. 44.)				
71a, added	Payment of wages by receivers.....	1921	23	91
Art. 8 (§§ 90-102), repealed	Limited partnerships.....	1922	640	1750
Art. 8 (§§ 90-119), added	Limited partnerships.....	1922	640	1750
110, 111 renumbered 125, 126	Laws repealed; when to take effect.....	1922	640	1758
PENAL LAW:				
(L. 1909, ch. 88, constituting cons. laws, ch. 40.)				
Art. 3 (§ 50), added	Abandonment.....	1921	101	315
180, subd. 3, repealed	Impure and unwholesome milk.....	1922	122	417
186	Abandonment of disabled animal.....	1922	260	618
192, repealed	Keeping milch cows in unhealthy places.....	1922	122	417

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PENAL LAW — (Continued)				
244	Negligent operation of motor vehicles.....	1921	238	924
Art. 31 (§§ 344–355), added	Billiard and pocket billiard rooms.....	1922	671	1833
382, added	Bribery of baseball players.....	1921	80	278
421	Untrue and misleading advertisements.....	1921	520	1601
433, repealed	Sale of agricultural products on commission.....	1922	122	417
435, subd. 4	Sale of kosher meat and meat preparations.....	1922	581	1314
435a, added	Sale of kosher meat and meat preparations.....	1922	580	1314
436a	Motor vehicles; defacing or removing identification marks.....	1922	392	823
482, subd. 4	Duty of board of health to inspect certain premises..	1921	566	1706
486, subd. 5	Vagrant and destitute children.....	1922	95	270
754	Elective franchise; mutilation, destruction or loss of registry list.....	1922	641	1759
757	Elective franchise; failure of house-dweller to answer inquiries.....	1922	641	1759
760a	Elective franchise; misconduct in relation to designation petitions.....	1922	641	1760
763	Elective franchise; violation of election law by public officer.....	1922	641	1761
764	Elective franchise; misdemeanor in relation to elections.....	1922	641	1761
765	Elective franchise; illegal voting.....	1922	641	1763
765a, added	Elective franchise; unlawful use of pasters.....	1922	641	1764
766	Elective franchise; false returns.....	1922	641	1764
776, repealed	Elective franchise; failure to file candidate's statement of expenses.....	1922	641	1764
776, added	Elective franchise; failure to file statement of campaign funds.....	1922	641	1764
781	Elective franchise; limitation of amounts to be expended.....	1922	641	1765
931	Unlawful use of state arms.....	1921	257	959
958, added	Use of state seal and insignia on private vehicles prohibited.....	1921	224	877
970a	Sale of gambling implements and devices prohibited..	1922	667	1829
1123, added	Injuring life or health of incompetent person.....	1921	427	1292
Art. 113 (§§ 1210–1214, 1214a–1214i, 1215–1218), added	Intoxicating liquor.....	1921	155	502
1270	Inspection of mines, tunnels and quarries.....	1921	68	259
1271	Hours of labor to be required.....	1921	68	259
1275	Violations of labor law and industrial code.....	1921	68	260
1276	Negligently furnishing insecure scaffolding.....	1921	68	261
1277	Neglect to complete or plank floors of buildings; constructed in cities.....	1921	68	261
1293a	Unauthorized use of motor vehicles.....	1922	500	1125
1293b	Obtaining property or credit by false statement.....	1921	306	1081
1308	Buying or receiving stolen property.....	1921	429	1295
1425, subd. 16	National and state flags; use.....	1921	428	1293
1425, subd. 16	National and state flags; desecration.....	1922	270	634
1434	Placing garbage on highways.....	1922	296	690
1484, subd. 4, added	Fraudulently wearing world war insignia.....	1921	143	469

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PENAL LAW — (Continued).				
1534, added	Ticket speculators.....	1921	12	15
1748	Adulterated drugs.....	1922	122	417
1751, repealed	Violations of agricultural law.....	1922	122	417
1753, repealed	Articles in imitation of food.....	1922	122	417
1897	Carrying and use of dangerous weapons.....	1921	297	1019
1897, subd. 10	License for pistol or revolver.....	1922	198	519
2041, added	Discrimination against children in leases.....	1921	298	1022
2147, subd. 4	Public traffic on Sunday.....	1921	299	1023
2240, subd. 1	Unauthorized wearing of military insignia.....	1921	42	110
PERSONAL PROPERTY LAW: (L. 1909, ch. 45, constituting cons. laws, ch. 41.)				
10	Definitions.....	1922	452	904
17a, added	Stock dividends.....	1922	452	904
21	Investment of trust funds.....	1922	599	1544
Art. 4 (§§ 60-67), repealed	Conditional sales.....	1922	642	1766
Art. 4 (§§ 60-80, 80a-80j), added	Uniform conditional sales law.....	1922	642	1766
POOR LAW: (L. 1909, ch. 46, constituting cons. laws, ch. 42.)				
30	Care of sick indigent persons.....	1921	248	942
85	Headstones for soldiers' graves.....	1921	522	1604
PRISON LAW: (L. 1909, ch. 47, constituting cons. laws, ch. 43.)				
22	Births to inmates of penal institutions.....	1922	645	1780
134, paragraph added	Property of deceased and escaped convicts.....	1922	278	652
161, added	Alien convicts of state prisons.....	1922	644	1780
185	Compensation of prisoners in state prisons.....	1922	177	493
214	Parole of mentally defective convicts.....	1922	297	681
242	Power of governor to grant compensation or com- mutation.....	1921	567	1708
243	Governor to annex condition to discharge.....	1921	567	1709
248	Application of art. 9.....	1922	297	682
280, 281	New York state reformatory.....	1921	483	1484
282, repealed	Eastern New York reformatory at Napanoch.....	1921	483	1484
283	State reformatory at Elmira.....	1921	483	1484
284	New York state reformatory; board of managers.....	1921	483	1485
285, repealed	Transfer of prisoners from reformatories.....	1921	483	1485
286, 287	New York state reformatory; superintendent.....	1921	483	1486
287a, added	Prisoner allowed to attend funeral and last illness of near relative.....	1921	213	861

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PRISON LAW— (Continued).				
288, repealed	Napanoch reformatory; officers and employees	1921	483	1486
289	New York state reformatory; compensation of officers and employees	1921	483	1486
290, repealed	Board of managers, state reformatories	1921	483	1487
292	General duties of chaplains	1921	483	1487
293	General duties of physicians	1921	483	1487
294	Powers and duties of treasurer	1921	483	1488
295	Transportation of convicts to reformatory	1921	483	1489
296	Transfer of prisoners to state prisons	1921	483	1489
297	Transfer of convicts from state prisons to reformatory	1921	483	1490
298	Control and discipline of prisoners at reformatory	1921	483	1490
299	Register of prisoners at reformatory	1921	483	1490
300	Parole of prisoners at reformatory	1921	483	1491
301	Retaking of paroled prisoners of reformatory	1921	483	1491
302	Rules of reformatory	1921	483	1491
303	Marks for good conduct at reformatory	1921	483	1492
304	Absolute release from imprisonment from reformatory	1921	483	1492
305	Sentences for definite periods to reformatory	1921	483	1492
306	Supervision of prisoners paroled from reformatory	1921	483	1493
307	Sentence to reformatory	1921	483	1493
307a-307c	Commitment to reformatory	1921	483	1493
308	Expenses of trial of convict committing crime in reformatory	1921	483	1494
357	Jail liberties, Westchester county	1921	296	1018
PUBLIC BUILDINGS LAW: (L. 1909, ch. 48, constituting cons. laws, ch. 44.)				
60	New York State Soldiers' and Sailors' Home; trustees.	1921	430	1296
60	New York State Soldiers' and Sailors' Home; trustees.	1922	127	421
61	New York State Soldiers' and Sailors' Home; powers of trustees	1922	481	1018
64	New York State Soldiers' and Sailors' Home; admission	1922	646	1781
Art. 8 (§§ 90-94), added	Guy Park House	1921	662	2038
PUBLIC HEALTH LAW: (L. 1909, ch. 49, constituting cons. laws, ch. 45.)				
3a	Divisions of department	1921	510	1576
3a	Divisions of department	1922	402	845
5	Laboratory supply stations	1921	399	1239
14	Inspection of state institutions by state commissioner.	1921	510	1577
Art. 2a (§§ 18, 18a-18c), added	Maternity, infancy and child hygiene	1922	402	846

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PUBLIC HEALTH LAW—(Continued).				
20	Local boards of health.....	1921	270	977
20b, added	General health districts.....	1921	509	1574
21a	Sewers; powers and duties of local boards.....	1921	510	1577
22, repealed	Lake George health district.....	1921	188	754
Art. 4 (§§ 40-50), repealed	Adulterations.....	1922	335	722
43, repealed	Analysis of spirituous, fermented or malt liquors....	1922	48	209
46, repealed	Adulteration of wines.....	1922	48	209
47, repealed	Pure wines defined.....	1922	48	209
48, repealed	Half wine and made wine defined; packages, how stamped and labeled.....	1922	48	209
49, repealed	Penalties.....	1922	48	209
73	Sewage.....	1921	510	1578
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281, added	Stock transfer tax; statute of limitations not applicable.	1922	354	758
350, subd. 7	Income tax.....	1922	425	906
353	Income tax; ascertainment of gain and loss.....	1921	573	1717
354, repealed	Income tax; exchange of property.....	1922	429	912
354, added	Income tax; exchange of property.....	1922	429	912
355, repealed	Income tax; gain through exchange.....	1922	429	912
355, added	Income tax; exchange of property when no gain or loss realized.....	1922	429	913
356	Income tax; inventory.....	1921	477	1431
356	Income tax; inventory.....	1922	427	910
358	Income tax; computation of net income.....	1921	477	1431
359, subd. 2,				
1 h, added	Income tax; deductions.....	1921	625	1948
360	Income tax; deductions.....	1921	477	1432
360, subd. 7	Income tax; deductions.....	1921	214	862
363	Income tax; credit in case of nonresidents.....	1921	477	1434
364	Income tax; partnerships.....	1921	477	1435
365	Income tax; estates and trusts.....	1922	426	907
366	Income tax; information and payment at source.....	1921	477	1435
367a, added	Income tax; returns where changed residence.....	1922	425	907
369	Income tax; fiduciary returns.....	1921	477	1437
369, subd. 2	Income tax; fiduciary returns.....	1922	426	909
370	Income tax; returns when accounting period changed.....	1921	477	1438
371	Income tax; time and place of filing returns.....	1921	477	1439
371	Income tax; time and place of filing returns.....	1922	427	910
373	Income tax; powers of tax commission.....	1921	477	1439
373a	Income tax; oaths and acknowledgments.....	1921	477	1440
374	Income tax; revision and readjustment of accounts.....	1921	477	1441
375	Income tax; review by certiorari.....	1921	477	1441
376, subds. 4-6	Income tax; penalties, additional taxes and interest.....	1921	477	1441
377	Income tax; when payable.....	1921	477	1442
377, subd. 8	Income tax; interest.....	1921	267	974
379	Income tax; collection, penalties and interest.....	1921	477	1444
380	Income tax; warrant for collection.....	1921	477	1444
381	Income tax; action for recovery.....	1921	477	1445
382	Income tax; distribution.....	1921	477	1445
382	Income tax; distribution.....	1922	107	400
383	Income tax; regulations.....	1921	477	1447
384	Income tax; secrecy required of officials.....	1921	477	1448

TABLES OF LAWS AMENDED OR REPEALED

1923

I. CHANGES IN THE CONSOLIDATED LAWS, 1921, 1922 — (Continued).

Section	SUBJECT	Year	Chapter	Page
TENEMENT HOUSE LAW: (L. 1909, ch. 99, constituting cons. laws, ch. 61.)				
2, subd. 12	Definitions.....	1921	218	870
59	Percentage of lot occupied.....	1921	218	866
54	Yards of corner lots.....	1921	218	867
55	Yard spaces of certain lots.....	1921	219	867
58, subds. 1, 2	Inner courts.....	1922	668	1829
59	Outer and inner courts.....	1921	218	868
91	Shafts, courts, areas and yards.....	1921	218	870
108	Walls of courts and shafts.....	1921	218	869
140	Registry of owner's name.....	1921	533	1638
150, subd. 5	Vagrancy.....	1921	533	1639
153, subd. 2	Permission of owner for certain uses.....	1921	533	1640
TOWN LAW: (L. 1909, ch. 68, constituting cons. laws, ch. 62.)				
47	Notices of town meeting.....	1922	105	280
85, subd. 1, subd. o, added	Washington county, compensation of assessors and overseers of poor.....	1922	111	405
98, subd. 3	General duties of supervisor.....	1921	452	1346
119, added	Traffic policemen for hamlets and unincorporated villages.....	1921	149	476
121a	Peace officers in certain towns.....	1922	21	17
125	Herkimer county; employment of clerks by assessors.....	1922	393	824
130	Power of town board to fill vacancies.....	1921	448	1339
137	Quarters for posts of war veterans.....	1921	133	384
138b, added	Appropriations for fire conning towers.....	1922	141	448
141a	Building codes.....	1922	520	1183
142	Application of art. 6a.....	1921	216	864
142 (as added by L. 1916, ch. 413), renumbered 141b	Town physician.....	1921	216	864
142a	Ordinances in certain towns.....	1922	210	531
142a, subd. 18, added	Building restrictions.....	1922	322	704
142b, added	Building construction.....	1922	165	478
170, subd. 10, added	Franklin county; town charges.....	1921	59	244
220	Regulation of certain occupations.....	1921	215	863
221, added	Itinerant carnivals and similar shows.....	1921	268	975
233	Approval and filing of map and plan of sewer system.....	1921	510	1586
236	Sewer systems.....	1922	163	476
243	Sewer systems.....	1921	144	469
261	Street lighting.....	1921	117	344
265, added	Lighting highways or bridges.....	1922	65	233
299a	Enlargement of water districts.....	1921	451	1344
Art. 13a (§§ 806-309), added	Drainage of agricultural lands.....	1921	534	1640
307	Drainage of agricultural lands.....	1922	211	534
314b	Incorporated fire companies.....	1922	236	555
319b	Police force; appointment and salaries.....	1921	46	128

I. CHANGES IN THE CONSOLIDATED LAWS, 1921, 1922 — (Continued).

Section	SUBJECT	Year	Chapter	Page
TOWN LAW (Continued).				
819f, added	Maintenance of police district.....	1921	46	129
320	Collection and disposition of garbage and ashes.....	1921	145	471
349d	Property for park districts.....	1921	450	1342
349n, added	Alteration of park districts.....	1922	394	825
492a, added	Purchase of sewers; bonds; assessments.....	1921	449	1340
501-503	Ontario county; fiscal year.....	1922	212	535
TRANSPORTATION CORPORATIONS LAW: (L. 1909, ch. 219, constituting cons. laws, ch. 63.)				
20	Stage coach corporations.....	1921	256	968
48	Pipe line over state lands.....	1921	332	1065
61, subd. 5, added	Municipal authorities defined.....	1922	609	1832
67, added	Electric lines over Indian reservations.....	1922	271	636
VILLAGE LAW: (L. 1909, ch. 64, constituting cons. laws, ch. 64.)				
3, 5	Proposition for incorporation.....	1921	453	1347
34, added	Liability to special districts; collection of taxes.....	1922	396	826
56	Submission of propositions; special election.....	1922	237	556
70	Receiver of taxes and assessments.....	1922	323	705
71	Receiver of taxes and assessments.....	1922	323	705
89, subd. 18a, added	Public hack stands.....	1921	465	1362
89, subd. 30, added	Building lines; character and use of buildings.....	1921	464	1361
89, subd. 31, added	Public parks.....	1922	596	1322
90, subd. 14a, added	Construction of electric light and power wiring.....	1921	220	872
90, subd. 19	Landing of boats; passengers.....	1922	523	1196
90, subd. 19a, added	Docks.....	1921	116	344
91, subd. 1	Licensing of occupations.....	1922	206	528
91, subd. 3	Licensing of occupations.....	1921	455	1350
91a, added	Licensing of restaurants and similar places.....	1921	455	1350
101, subd. 5a, added	Park fund.....	1922	596	1323
104	Annual assessment-roll.....	1921	234	906
105	Assessors; meeting to hear complaints.....	1921	234	907
106	Assessors; meeting to hear complaints.....	1922	207	538
107	Assessors; failure to meet.....	1921	234	908
108	Assessment-rolls; notice of completion.....	1921	234	909
109a, added	Assessment-rolls; correction of errors; boards.....	1922	509	1148
110, subd. 3a, added	Annual tax levy.....	1922	586	1323
117a, added	Collection of taxes by clerk.....	1922	655	1796
129	Bonds or other obligations.....	1921	456	1351
166	Pavements and sidewalks.....	1922	657	1798

I. CHANGES IN THE CONSOLIDATED LAWS, 1921; 1922 — (Concluded).

Section	SUBJECT	Year	Chapter	Page
VILLAGE LAW — (Continued).				
166a, added	Pavements and sidewalks; temporary financing.....	1922	657	1800
166b, added	Filling low, swamp and waste lands.....	1922	657	1800
188a	Police department.....	1921	100	313
191, added	Village policemen in certain counties.....	1921	99	312
227	Water supply pipes.....	1922	398	840
232	Supplying water outside corporate limits.....	1922	208	529
260	Establishing sewer system.....	1921	510	1587
264	Construction of sewers at expense of property benefited.....	1922	657	1801
274	Expense of constructing sewer system.....	1922	657	1801
316, repealed	Compensation of president and trustees.....	1921	454	1350
349	Diminishing boundaries.....	1921	275	987
WORKMEN'S COMPENSATION LAW: (L. 1914, ch. 41, constituting cons. laws, ch. 67, superseding L. 1913, ch. 816.)				
3, subd. 2, repealed	Definition of "commission".....	1921	60	245
3, subd. 2, added	Definition of "commission".....	1921	60	245
25	Payment of claims.....	1921	540	1662
26	Enforcement of payment in default.....	1921	539	1660
62, 63, repealed	Commission's expenses and office.....	1921	60	248
65, 66, repealed	Powers of commissioners and secretary.....	1921	60	248
75, repealed	Report of commission.....	1921	60	248
77	Expenses of administration.....	1921	540	1665
91	State treasurer custodian of fund.....	1921	60	247
93	Investment of surplus or reserve.....	1921	60	247
All amended	.....	1922	615	1623

II. CHANGES IN THE CODE OF CRIMINAL PROCEDURE, 1922.

(Sections, etc., are amended unless it is otherwise indicated.)

Section	SUBJECT	Chapter	Page
42	Jurisdiction of county courts.....	4	3
52, 53, 55	Court of general sessions, New York county.....	300	684
56, subd. 35	Court of special sessions; jurisdiction.....	248	606
154	Peace officers.....	190	511
226a, added	Additional grand juries, New York county.....	301	686
554b, added	Professional bondsmen.....	303	686
921	Maintenance of children by parents.....	67	234
952p	Grand jury stenographers.....	22	19

III. CHANGES IN THE PRACTICE ACTS, 1922.

(Sections, etc., are amended unless it is otherwise indicated.)

Section	SUBJECT	Chapter	Page
CIVIL PRACTICE ACT: (L. 1920, ch. 925.)			
154	Security for infant or incompetent.....	186	508
193	Determination of rights of parties to controversy.....	624	1669
207	Guardian of infant or incompetent.....	538	1230
235	Personal service summons without state without order.....	250	607
626	Time to appeal from order.....	145	453
665, subd. 7	Exemptions of personal property.....	143	450
775	Supplementary proceedings.....	550	1277
824	Provisional remedies; right of certain parties.....	625	1670
986	Real property actions; publication of notice of sale.....	86	260
1020	People of state as defendant.....	284	689
1239, subd. 3 re-numbered subd. 4	Writ of habeas corpus not returnable on Sunday.....	187	509
1239, subd. 3, added	Writ of habeas corpus, where returnable.....	187	509
1283	Writ of certiorari abolished.....	355	738
1295	Stay of proceedings.....	219	541
1395	Sale of infant's or incompetent's real property.....	117	411
1416	Summary proceedings; notice.....	156	469
1416	Summary proceedings; notice.....	219	541
1475	Defendant's costs of course.....	92	267
1514	Costs and allowances.....	219	541
1556	Westchester county; fees of county clerk.....	144	450
1556	Fees; certain sections not applicable to New York city.....	219	541
1557	Westchester county, fees of county clerk.....	144	450
1558	Sheriff's fees.....	626	1671
1572a, added	Effect given statutory references to code of civil procedure.....	85	260
COURT OF CLAIMS ACT: (L. 1920, ch. 922.)			
8, subd. 2	Court stenographers; fees.....	251	607
JUSTICE COURT ACT: (L. 1920, ch. 937.)			
127	General rules of pleading.....	231	551
430	Payment of justice's fee on appeal.....	87	261
477	Transfer of action or proceeding.....	171	488
SURROGATE'S COURT ACT: (L. 1920, ch. 928.)			
15	Acting surrogate; compensation.....	320	702
30, subd. 2	Fees of stenographers; Monroe county.....	235	554
53	Citation; general contents of.....	485	1034
55	Citation; how served within state.....	663	1790

III. CHANGES IN THE PRACTICE ACTS, 1922—(Concluded).

(Sections, etc., are amended unless it is otherwise indicated.)

Section	SUBJECT	Chapter	Page
SURROGATE'S COURT ACT—(Continued).			
56	Service personally without the state, or by publication	653	1792
63	Appearances	653	1792
70	Jury; how obtained; fees	352	746
96	Objections to grant of letters	653	1792
109, repealed	Release of sureties	584	1317
109, added	Release of sureties	584	1317
110, repealed	Release of sureties	584	1317
141	Witnesses to be examined; proof required	653	1793
142	Absent witnesses	653	1793
148	Notice to legatees and devisees of objections filed	653	1794
150	Wills to be recorded and retained; exception	653	1794
162	Petition for ancillary letters	140	448
168	Testamentary trustees	456	971
207	Notice to creditors; publication	234	553
216	Funeral expenses	139	446
217	Payment of claim for administration expenses	203	525
234, subd. 2	Disposition of decedent's real property	139	447
271	Payment of share of infant	151	457
314, subds. 2, 3	Definition of expressions	139	447
316	Certain provisions made applicable to proceedings in surrogates' courts	653	1794

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922.*

(Sections, etc., are amended unless it is otherwise indicated.)

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
Albany:					
1899	554	Police pension fund. All repealed	1920	375	977
1903	174	Police pension fund. All repealed	1920	375	977
1904	466	Street improvements, § 2	1920	466	1208
1907	341	Police pension fund. All repealed	1920	375	977
1909	551	Bureau of buildings, §§ 7, 8	1921	221	873
1911	78	Police pension fund. All repealed	1920	375	977
1917	561	Police pension fund. All repealed	1920	375	977
Albany county:					
1883	79	Regulation of public business, § 6	1919	460	1265
1884	218	Sheriff, etc., § 9	1919	21	29
1909	519	Deputy sheriffs, § 1	1920	21	31

* For changes in unconsolidated laws 1778-1918, see statutory record of unconsolidated laws, 1911, published by statutory consolidation commission, pursuant to L. 1910, ch. 513, and L. 1911, ch. 192; and supplement thereto, published pursuant to L. 1917, ch. 325, and L. 1918, ch. 424.

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922— (Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
1920	331	Albany Diocese Mission Aid: Charter, § 2.....	1921	241	928
1921	53	Albany Female Academy: Charter, §§ 2, 3, 5, 6, repealed; new §§ 2, 3, 5, 6, added.....	1922	44	67
1879	142	Albion: Charter, tit. 8, § 5.....	1922	97	273
1890	562	Alden: Charter, tit. 2, § 1; tit. 3, § 1, subd. 12, amended; subds. 17, 18, added.....	1920	410	1027
1890	562	Charter, tit. 3, § 16.....	1920	332	906
1900	562	Charter, tit. 3, § 16; tit. 10, § 1.....	1920	410	1027
1847	37	Alexander: Charter, § 1.....	1921	6	7
1890	400	American Baptist Education Society: Charter. All amended.....	1920	341	917
1911	242	Amsterdam: Charter, § 8.....	1919	255	858
1911	242	Charter, § 22.....	1921	61	249
1911	242	Charter, § 28.....	1919	255	859
1911	242	Charter, § 43, subd. (q) relettered subd. (r), new subd. (q), added; § 54, amended; § 55, subd. (i), added.....	1921	61	249
1911	242	Charter, § 57.....	1922	91	265
1911	242	Charter, §§ 107, 108.....	1922	83	255
1911	242	Charter, § 110.....	1919	255	860
1911	242	Charter, § 110.....	1921	61	250
1911	242	Charter, § 110.....	1922	83	255
1911	242	Charter, § 111.....	1921	61	251
1911	242	Charter, § 113, subd. second, § 114.....	1922	83	255
1911	855	Appellate division, first department: Retirement of employees, § 2.....	1920	758	1853
1911	855	Retirement of employees, § 2.....	1921	324	1067
1920	912	Athletic commission: Created.....	1921	714	2506
1890	57	Auburn: Lands in town of Sennett for cemetery. All repealed, except § 1, and last sentence of § 7.....	1920	438	1171
1892	479	Water supply. All repealed.....	1920	438	1171
1893	605	Crematory for garbage. All repealed.....	1920	438	1171
1894	36	Water supply. All repealed.....	1920	438	1171
1896	810	Seymour Library Association. All repealed.....	1920	438	1171
1897	110	Water supply. All repealed.....	1920	438	1171
1897	258	Paving South street. All repealed.....	1920	438	1171
1899	648	Paving South street. All repealed.....	1920	438	1171
1901	169	Water supply. All repealed.....	1920	438	1171
1903	341	Water supply. All repealed.....	1920	438	1171
1903	430	Paving streets. All repealed.....	1920	438	1171
1904	463	Flushing paved streets. All repealed.....	1920	438	1171

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922—(Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
<i>Auburn — (Continued).</i>					
1905	110	Flushing paved streets. All repealed.	1920	438	1171
1905	352	Paving streets. All repealed.	1920	438	1171
1905	475	Subways or conduits in streets. All repealed.	1920	438	1171
1906	185	Charter. All repealed, except § 1.	1920	438	1171
1906	386	Water supply. All repealed.	1920	438	1171
1908	234	Amends charter. All repealed.	1920	438	1171
1908	236	Department of public health. All repealed.	1920	438	1171
1909	185	Amends charter. All repealed.	1920	438	1171
1910	379	Amends charter. All repealed.	1920	438	1171
1910	380	Paving streets. All repealed.	1920	438	1171
1910	402	Flushing paved streets. All repealed.	1920	438	1172
1910	404	Construction of filtration plant. All repealed.	1920	438	1172
1910	593	Amends charter. All repealed.	1920	438	1172
1910	678	Lighting districts. All repealed.	1920	438	1172
1911	389	Water supply. All repealed.	1920	438	1172
1911	560	Sidewalks, curbstones and gutters. All repealed.	1920	438	1172
1914	141	Water commissioners. All repealed.	1920	438	1172
1914	287	Contracts and bonds for paving streets. All repealed.	1920	438	1172
1915	541	Firemen's pension fund. All repealed.	1920	438	1172
1916	189	Contingent expenses. All repealed.	1920	438	1172
1916	375	Storm sewers. All repealed.	1920	438	1172
1916	388	Appointment and election of city officers. All repealed.	1920	438	1172
1917	441	Compensation of jurors, city court and recorder's court. All repealed.	1920	438	1172
1918	479	Police pension fund. All repealed.	1920	438	1172
		Charter.	1920	438	1099
1920	438	Charter, § 75.	1921	323	1098
<i>Babylon town:</i>					
1911	18	Receiver of taxes. All repealed.	1920	311	876
<i>Barge canal act:</i>					
1903	147	Routes, depths, locks and bridges, § 3.	1921	687	2435
1903	147	Bond issues, § 16.	1919	38	96
1903	147	Bond issues, § 16, in part, repealed.	1921	579	1755
<i>Barge canal terminals:</i>					
1911	746	Bond issue, § 4.	1921	362	1151
1911	746	Bond issue, § 4.	1922	341	728
1911	746	Bond issue, § 11.	1919	208	798
<i>Batavia:</i>					
1914	354	Charter, § 14.	1919	473	1295
1914	354	Charter, § 22, added; § 51, subd. 8, amended.	1919	169	326
1914	354	Charter, § 104.	1919	473	1297
1914	354	Charter, § 104.	1920	270	798
1914	354	Charter, § 202, added.	1919	41	100
		Charter.	1921	678	2186
1921	678	Charter, title, amended; § 199, added; § 199, renumbered § 200.	1921	689	2441
<i>Beacon:</i>					
1913	539	Charter, §§ 13-17, 24, 25, 99, 100, 114a, 117.	1920	171	651

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 — (Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
1917	384	Beekman: Use of state lands at Beekman for military purposes. All repealed.....	1920	320	884
1912	403	Binghamton: Firemen's relief and pension fund, §§ 5, 6.....	1922	26	23
1917	608	Charter, § 32.....	1922	27	24
1917	608	Charter, § 42, added.....	1921	39	107
1917	608	Charter, § 64.....	1922	27	24
1917	608	Charter, § 146.....	1919	366	1079
1917	608	Charter, § 245.....	1921	93	308
1917	608	Charter, art. 9 (§§ 301-323), repealed.....	1919	632	1663
1916	66	Binghamton Board of Charities: Consolidation with other associations, § 7a, added.....	1919	551	1506
1916	66	Binghamton Bureau of Associated Charities: Consolidation with other associations, § 7a, added.....	1919	551	1506
1840	155	Black Rock: Land ceded to United States, § 1. (See footnote, L. 1922, p. 925).....	1922	438	925
1844	21	Land ceded to United States, § 1. (See footnote, L. 1922, p. 727).....	1922	340	727
1913	415	Blind, state commission: Act creating, § 2a, added; § 5, amended.....	1921	355	1142
1913	787	Bonds of state: Relating to, § 1.....	1921	358	1145
1920	806	Boundary waters commission: Act creating, § 2.....	1921	339	1119
1920	806	Act creating, § 2.....	1922	617	1663
1912	548	Bronx county: Erection, § 3.....	1920	738	1800
1912	548	Erection, § 9a.....	1921	424	1288
1918	90	Commissioner of records, § 1, subd. 2.....	1920	820	2121
1918	90	Commissioner of records, § 1, subd. 2.....	1922	305	689
1907	504	Bronx river: Pollution, § 1a, added; §§ 5, 6, 18, 18A, amended.....	1922	604	1552
1884	35	Brookhaven town: Trustees, § 2.....	1920	100	171
1882	303	Brooklyn: Summary proceedings to remove monthly tenants, § 1..	1919	512	1418
1882	303	Summary proceedings to remove monthly tenants, § 1..	1919	649	1776
1882	303	Summary proceedings to remove monthly tenants, § 1..	1920	209	711
1920	706	Improvement of Albany avenue.....	1921	616	1935
1920	20	Brooklyn State Hospital: Buildings at Creedmoor division. All repealed.....	1920	950	2500
1916	66	Broome County Humane Society: Consolidation with Binghamton associations, § 7a, added.	1919	551	1506

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 (Continued):

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
Buffalo:					
1906	527	Buffalo river and Cazenovia creek, § 11.....	1920	173	661
1909	570	City court, § 6.....	1920	399	1014
1909	570	City court, §§ 10, 49.....	1922	437	923
1909	570	City court, § 56.....	1922	148	449
1913	816	Sea wall and Hamburg turnpike contracts, § 1.....	1921	506	1562
1914	217	Charter, § 5a, added.....	1922	524	1197
1914	217	Charter, § 11.....	1919	18	26
1914	217	Charter, § 31.....	1919	133	257
1914	217	Charter, § 35, added.....	1920	459	1212
1914	217	Charter, § 42.....	1919	18	27
1914	217	Charter, § 44.....	1919	130	262
1914	217	Charter, § 97.....	1919	95	186
1914	217	Charter, § 106.....	1920	834	907
1914	217	Charter, § 108.....	1919	89	174
1914	217	Charter, § 108.....	1920	99	170
1914	217	Charter, § 144.....	1919	89	174
1914	217	Charter, § 144.....	1921	493	1512
1914	217	Charter, § 168.....	1919	89	176
1914	217	Charter, § 168.....	1920	99	170
1914	217	Charter, § 170.....	1919	89	176
1914	217	Charter, § 173.....	1919	98	190
1914	217	Charter, § 189.....	1919	89	177
1914	217	Charter, § 189.....	1920	835	909
1914	217	Charter, §§ 215, 221, 227.....	1920	439	1172
1914	217	Charter, § 250d.....	1919	495	1334
1914	217	Charter, § 250d.....	1921	152	479
1914	217	Charter, § 250a.....	1920	458	1211
1914	217	Charter, § 251.....	1920	172	659
1914	217	Charter, §§ 254, 255.....	1920	398	1012
1914	217	Charter, § 270.....	1920	297	833
1914	217	Charter, § 270d.....	1921	152	480
1914	217	Charter, § 277, subd. 8; § 279, subd. 2.....	1920	397	1010
1914	217	Charter, § 279, subd. 3, § b.....	1919	476	1360
1914	217	Charter, § 280, subd. 1.....	1920	397	1011
1914	217	Charter, §§ 295, 296.....	1919	56	118
1914	217	Charter, tit. 8, art. 2, caption; § 307.....	1919	130	233
1914	217	Charter, §§ 316, 317.....	1922	155	468
1914	217	Charter, § 365, added.....	1922	411	858
Buffalo University:					
1846	189	Charter, § 3, repealed; new § 3, added.....	1920	271	799
Canals:					
1903	147	Barge canal act, § 3.....	1921	587	2435
1903	147	Barge canal act, § 16.....	1919	38	95
1903	147	Barge canal act, § 16, in part, repealed.....	1921	579	1755
1909	391	Cayuga and Seneca canals, § 4, in part, repealed.....	1921	579	1755
1911	746	Barge canal terminals, § 4.....	1921	242	1151
1911	746	Barge canal terminals, § 11.....	1919	203	793
1913	243	Retention of portions of Champlain and Erie canals, § 1.....	1921	688	2440
1913	414	Harlem river ship canal, § 2.....	1920	808	2107
1917	317	Canal on Long Island to be constructed by United States, § 1.....	1919	15	24

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1913	371	Canandaigua: Charter, §§ 10, 13, amended; § 187, repealed.....	1920	286	832
1904	320	Canistota: Water commissioners, §§ 3-9, amended; §§ 12, 13, added	1920	278	820
1869	834	Carthage: Charter, tit. 2, §§ 1, 2, 8, tit. 3, § 5, amended; tit. 4, § 2a, added.....	1920	452	1200
1917	256	Catholic charities: Charters, title; §§ 1-3.....	1922	306	680
1917	256	Charters, § 4.....	1921	303	1028
1917	256	Charters, § 4.....	1922	306	691
1900	142	Cattaraugus county: Sheriff, § 11.....	1920	22	32
1909	891	Cayuga and Seneca canals: Act establishing, § 4, in part, repealed.....	1921	579	1755
1852	207	Cayuga Asylum for Destitute Children: Charter, § 13.....	1919	90	178
1906	24	Cayuga county: Sheriff, §§ 1, 2, 10.....	1922	89	202
1900	255	Cayuga Nation of Indians: Adjustment of claim, § 3, added.....	1920	596	1530
1855	39	Chautauqua county: Recording conveyances. All repealed.....	1921	30	90
1920	699	Child welfare commissions: Act creating, § 3.....	1921	342	1128
1830	267	Children's Home of Utica: Charter, § 2.....	1922	188	500
1861	164	Children's Home Society: Charter, § 2.....	1921	264	968
1887	326	Chittenango Falls Park Association: Charter, §§ 4, 5.....	1922	312	695
1917	786	City boards of education: Act providing for, § 6a, added.....	1919	632	1662
1920	902	Civil practice rules: Convention to adopt, § 1.....	1921	370	1166
1890	178	Code of civil procedure supplements: Supplemental to code of civil procedure. All repealed.	1920	925	v. 4, 521
1876	448	Code of remedial justice: All repealed.....	1920	925	v. 4, 521

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1915	180	Cohoes: Charter, §§ 320, subd. 1, 322.....	1921	406	1515
1889	488	Columbia county: Supervisors. All repealed.....	1920	298	855
1911	890	Congressional districts: Dividing state into, § 1, portions describing districts 11-14.....	1922	636	1745
1889	511	Codperstown: Charter, § 19, subd. 9a, added.....	1922	220	542
1905	142	Corning: Charter, § 16.....	1919	599	1592
1905	142	Charter, §§ 20, 38.....	1920	548	1357
1905	142	Charter, § 39, subd. 7, repealed; subd. 8, renumbered subd. 7, and amended.....	1921	240	925
1905	142	Charter, § 47.....	1920	548	1359
1905	142	Charter, § 49, added.....	1919	599	1592
1905	142	Charter, § 49.....	1920	548	1390
1905	142	Charter, 49a, added.....	1919	599	1593
1905	142	Charter, §§ 86, 92.....	1921	240	926
1900	160	Cortland: Charter, § 14.....	1920	344	923
1900	160	Charter, § 53, subd. 8.....	1922	74	246
1900	160	Charter, § 66 (as added by L. 1905, ch. 262).....	1920	345	924
1900	160	Charter, § 66 (as added by L. 1908, ch. 385).....	1922	463	985
1918	553	Cortland State Normal and Training School: New site, § 1.....	1919	119	216
1918	553	New site, § 1.....	1921	11	13
1919	87	Lease, repairs, equipment, etc., § 1.....	1919	563	1547
1919	562	Reconstruction. All repealed.....	1920	776	1908
1920	611	Conveyance of site to city, § 1.....	1921	106	326
1920	776	Erection of buildings, §§ 1-3.....	1922	325	708
1905	263	Cortlandt town: Appropriation to Helping Hand Hospital Association of Peekskill, § 1.....	1919	67	143
1897	62	County detectives: Appointment and compensation, § 1.....	1920	779	1911
1910	564	County roads: County roads in certain counties, § 2.....	1921	400	1240
1910	564	County roads in certain counties, § 2.....	1922	611	1565
1910	564	County roads in certain counties, § 3.....	1921	400	1240
1910	564	County roads in certain counties, § 3a, added.....	1920	123	214
1910	564	County roads in certain counties, § 4.....	1921	460	1240
1918	268	County tuberculosis hospitals: Certain counties excepted, § 2, repealed.....	1919	57	127

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1917	389	Defense council: Act creating. All repealed.....	1919	123	221
1853	243	DeVeaux College for Orphans and Destitute Children: Charter, § 1.....	1922	263	621
1909	538	Dunkirk: Charter, § 14.....	1919	96	188
1909	538	Charter, § 107.....	1919	346	1035
1909	538	Charter, § 160.....	1922	31	31
1909	538	Charter, §§ 170, 172.....	1922	511	1151
1909	538	Charter, § 191, amended; §§ 192-195, repealed; §§ 192-195, added.....	1919	70	148
1915	303	Dutchess county: County clerk, § 7.....	1920	25	35
1909	446	Eastern New York State Custodial Asylum: Managers, grounds, etc., §§ 1-4, 8-11, repealed.....	1919	633	1705
1910	441	Education law amendments: Retirement fund for teachers in state institutions. All repealed.....	1921	568	1711
1915	614	Retirement of certain teachers in state institutions. All repealed.....	1921	568	1711
1921	55	Elections: Superintendent of elections, § 8.....	1922	588	1502
1906	477	Elmira: Charter, § 130.....	1921	285	999
1906	477	Charter, § 141.....	1921	503	1552
1906	477	Charter, §§ 173-175, repealed; new §§ 173-175, added; § 176, added; § 177, amended; § 177a, added.....	1922	134	496
1906	477	Charter, § 197.....	1921	286	999
1913	660	Water department, § 2, added.....	1922	466	996
1919	304	Erie county: Board of equalization, § 1.....	1921	175	544
1918	197	Feeble-minded, commission on: Act creating. All repealed.....	1919	633	1705
1860	190	Feld, Oliver A.: Ferry across Hudson river, §§ 2, 3.....	1921	395	1234
1917	813	Food commission: Act creating. All repealed, except § 24.....	1919	64	137
1919	64	Abolition, transfer of functions, § 6.....	1920	268	839
1917	205	Food supply commission: Act creating. All repealed.....	1919	139	265
1917	146	Forest preserve: Appropriation to acquire lands, § 3.....	1920	605	1545

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1911	851	Forestry, State College of: Charter, § 2, subd. 2, amended; § 4, subd. 5, added; § 4, subd. 5, renumbered subd. 6.....	1919	536	1481
1902	29	Franklin county: Sheriff, § 8.....	1922	24	21
1894	490	Fredonia: Charter, art. 2, § 20.....	1920	153	252
1894	490	Charter, art. 3, § 5.....	1919	66	142
1920	904	Pulmer creek: Improvement, § 1.....	1921	245	933
1902	63	Fulton: Charter, §§ 7, 9.....	1919	552	1507
1902	63	Charter, § 11.....	1919	552	1508
1902	63	Charter, § 11, subd. 2.....	1919	533	1471
1902	63	Charter, § 12.....	1919	552	1509
1902	63	Charter, § 17.....	1919	533	1472
1902	63	Charter, §§ 21, 28, 30, amended; § 31, repealed; § 44, subd. 7, §§ 45, 46, 50, subd. 24; §§ 55, 60-70, amended.....	1919	552	1510
1902	63	Charter, § 80.....	1919	533	1472
1902	63	Charter, § 80.....	1919	552	1527
1902	63	Charter, §§ 81-88, 93, 95-97, 282.....	1919	552	1528
1892	328	General Electric Co.: Charter, § 3.....	1922	181	499
1897	360	Geneva: Charter, §§ 1, 5, 32.....	1919	534	1473
1897	360	Charter, § 44, 2d paragraph made § 44a, and amended; § 52, amended, § 65a, repealed.....	1922	441	929
1897	360	Charter, § 107, re-enacted.....	1919	534	1473
1897	360	Charter, § 111, subd. 5, amended.....	1922	441	930
1897	360	Charter, § 112, amended; § 113, added.....	1919	534	1476
1897	360	Charter, §§ 117, 124-126, 137, 143.....	1921	505	1555
1897	360	Charter, § 144.....	1921	505	1558
1897	360	Charter, § 144.....	1922	441	930
1897	360	Charter, § 144a, added.....	1921	505	1561
1897	360	Charter, § 147, amended; § 148 renumbered § 154; new § 148, added; § 148a, repealed; §§ 149-153, added; §§ 149-170 renumbered §§ 155-176.....	1922	441	932
1860	108	German Liederkrantz of the city of New York: Charter, § 1.....	1920	317	881
1917	787	Glen Cove: Charter, §§ 3, 20.....	1919	505	1402
1917	787	Charter, § 26.....	1922	443	940
1917	787	Charter, § 31.....	1919	505	1403
1917	787	Charter, § 31.....	1922	443	941
1917	787	Charter, § 32.....	1919	505	1404
1917	787	Charter, § 33.....	1922	443	941

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1917	787	Charter, §§ 35, 50, 52.....	1919	505	1404
1917	787	Charter, § 81.....	1922	443	941
1917	787	Charter, §§ 82, 77-79, 93.....	1919	505	1405
1917	787	Charter, § 121.....	1919	505	1407
1917	787	Charter, § 121.....	1922	443	943
1917	787	Charter, § 122.....	1919	505	1408
1917	787	Charter, § 122.....	1922	443	943
1917	787	Charter, § 123.....	1919	505	1408
1917	787	Charter, § 123.....	1922	443	944
1917	787	Charter, § 124.....	1919	505	1409
1917	787	Charter, § 124.....	1922	443	944
1917	787	Charter, § 125.....	1919	506	1409
1917	787	Charter, §§ 141, 142.....	1922	443	944
1917	787	Charter, § 184.....	1919	505	1410
		Glens Falls:			
1908	29	Charter, § 9, subd. 3.....	1919	347	1035
1908	29	Charter, § 45.....	1922	468	1000
1908	29	Charter, § 50.....	1922	467	997
1908	29	Charter, § 57.....	1920	368	964
1908	29	Charter, § 57, amended; §§ 87a-87m, added; § 92, amended.....	1920	614	1557
1908	29	Charter, § 171a, added.....	1920	352	985
		Gloversville:			
1899	275	Charter, §§ 10, 13; tit. 3, schedule of sections.....	1920	122	199
1899	275	Charter, §§ 26, 28.....	1919	348	1036
1899	275	Charter, § 29.....	1920	122	201
1899	275	Charter, § 29.....	1922	556	1284
1899	275	Charter, § 30.....	1922	556	1287
1899	275	Charter, §§ 31-33, 39.....	1920	122	201
1899	275	Charter, § 57, subd. 27.....	1919	348	1037
1899	275	Charter, § 70.....	1919	348	1038
1899	275	Charter, § 70.....	1920	122	207
1899	275	Charter, § 74, added; §§ 75-78, amended.....	1919	348	1040
1899	275	Charter, § 89, subd. 5.....	1919	348	1044
1899	275	Charter, § 89, subd. 5.....	1921	118	346
1899	275	Charter, §§ 105, 131.....	1920	122	209
1899	275	Charter, § 226.....	1922	556	1289
1899	275	Charter, § 246.....	1920	122	214
		Green Island:			
1869	882	Charter, §§ 4, 7, 8, 10, repealed; new §§ 4, 7, 8, 10, added; § 13, amended.....	1920	3	4
1871	637	Police commissioners, § 15.....	1921	56	214
		Grosvenor Library:			
1859	239	Act establishing, § 2.....	1920	102	173
		Hamburg turnpike contracts:			
1913	616	Conveyance of lands under water, § 1.....	1921	506	1562
		Hamilton county:			
1915	200	Sheriff, § 1.....	1922	94	289

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1913	414	Harlem river ship canal: Right of way, § 2.....	1920	808	2107
1905	263	Helping Hand Hospital Association: Appropriation for, from Cortlandt town, § 1.....	1919	67	143
1870	591	Hempstead town: Disposition of money from sale of common lands, § 7.....	1919	20	28
1914	151	Improvement of waterways, § 1.....	1920	324	887
1910	162	Herkimer: Municipal commission, § 12, subd. 6, § 13.....	1922	36	226
1910	162	Municipal commission, §§ 20, 24.....	1919	543	1490
1883	181	Herkimer county: Relief of poor, §§ 4, 5, 10.....	1920	143	235
1903	319	Sheriff, § 3.....	1920	18	28
1908	496	Purchasing agent, § 1.....	1920	17	27
1883	181	Herkimer town: Relief of poor, §§ 4, 5, 10.....	1920	143	235
1922	40	Highway appropriations: Appropriations. All repealed.....	1922	240	579
1919	222	Highway improvement: Appropriation. All repealed.....	1921	173	543
1920	670	Appropriation, § 1, amended; § 2, repealed.....	1921	193	760
1910	532	Highway improvement fund: Appropriation. All repealed.....	1922	7	5
1911	156	Appropriation. All repealed.....	1922	7	5
1911	426	Appropriation. All repealed.....	1922	7	5
1911	463	Appropriation. All repealed.....	1922	7	5
1911	467	Appropriation. All repealed.....	1922	7	5
1911	496	Appropriation. All repealed.....	1922	7	5
1911	614	Appropriation. All repealed.....	1922	7	5
1911	657	Appropriation. All repealed.....	1922	7	5
1911	715	Appropriation. All repealed.....	1922	7	5
1911	733	Appropriation. All repealed.....	1922	7	5
1911	743	Appropriation. All repealed.....	1922	7	5
1913	786	Appropriation. All repealed.....	1922	7	5
1915	277	Appropriation. All repealed.....	1922	7	5
1921	660	Highways: Highway in Kings, Queens and Nassau counties, §§ 2-4, 7.....	1922	641	1241
1915	301	Honor Roll Relief Fund: Charter, § 1.....	1919	318	985
1906	288	Hornell: Charter, §§ 18, 19, 30, 37, 54, 56, amended; § 59, repealed; § 60, renumbered § 59; §§ 70, 71, 74, 76, 77, 185, 195, amended.....	1921	153	481
1906	288	Charter, tit. 15 (§§ 300-314), added.....	1921	507	1564

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1893	266	Charter, §§ 3, 4, 16.....	1921	98	311
1893	266	Charter, § 43.....	1919	197	785
1893	266	Charter, § 43.....	1921	98	312
		Hospital development commission:			
1917	238	Act creating, § 1.....	1919	437	1225
1917	238	Act creating, § 1.....	1921	1	1
		Hudson:			
1895	751	Charter, §§ 45, 79, subd. 3.....	1920	859	2186
1895	751	Charter, § 79, subd. 5.....	1920	40	79
1895	751	Charter, § 79, subds. 6, 6a, 7, 8, §§ 171, 181, 182.....	1920	859	2187
1895	751	Charter, § 185.....	1920	40	79
		Charter.....	1921	669	2052
1921	669	Charter, § 221a, added; §§ 222-224, amended.....	1922	470	1002
		Hudson river:			
1860	190	Ferry maintained by Oliver A. Field, §§ 2, 3.....	1921	305	1234
		Hudson river tunnel:			
1919	178	Construction between New York and New Jersey, § 5a.....	1920	785	1920
1919	178	Construction between New York and New Jersey, §§ 5b-5d, added.....	1922	399	841
1919	178	Construction between New York and New Jersey, § 7a, added.....	1920	785	1921
		Huntington town:			
1910	138	Receiver of taxes. All repealed.....	1920	311	876
		Ice comptroller:			
1918	4	Act creating. All repealed.....	1919	86	171
		Ilion:			
1895	315	Charter, § 4.....	1919	65	140
1895	315	Charter, §§ 26, 33, 34, 56, subds. 5, 8.....	1919	142	265
1895	315	Charter, § 56, subd. 13.....	1920	94	165
1895	315	Charter, §§ 72, 91, repealed.....	1919	142	270
		Indian affairs:			
1919	590	Commission, § 1.....	1921	544	1671
		Industrial Farm Colony:			
1917	384	Use of land for military purposes. All repealed.....	1920	320	884
		International joint commission on boundary waters:			
1920	806	Creating, § 2.....	1921	339	1119
1920	806	Creating, § 2.....	1922	617	1663
		Isaac L. Rice Memorial Hospital for Convalescents:			
1916	339	Charter, §§ 1, 2.....	1920	280	824
		Islip town:			
1919	428	Receiver of taxes. All repealed.....	1920	311	876

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		Ithaca:			
1908	508	Charter, §§ 2, 3.....	1921	594	1590
1908	508	Charter, §§ 18, 19.....	1920	387	982
1908	508	Charter, § 41.....	1921	518	1601
1908	508	Charter, § 42.....	1920	387	985
1908	508	Charter, § 42.....	1921	518	1592
1908	508	Charter, §§ 58, 59, 147, 148, 150, 154.....	1920	387	985
1908	508	Charter, § 166, subd. 5.....	1920	387	989
1908	508	Charter, § 166, subd. 8.....	1921	512	1590
		Jamaica bay:			
1918	538	Public streets or boulevards across, §§ 1, 4, 7.....	1920	826	2128
		Jamestown:			
1907	387	Charter, § 10.....	1919	16	25
1907	387	Charter, § 10.....	1919	117	212
1907	387	Charter, § 12, amended; § 25, repealed; §§ 25, 25a, added; § 26, amended.....	1919	117	213
1907	387	Charter, § 28, subd. 1.....	1919	19	28
1907	387	Charter, § 28, subd. 1.....	1920	440	1176
1907	387	Charter, §§ 130a, 130b, added.....	1919	63	135
1907	387	Charter, §§ 220-224, repealed.....	1920	448	1196
1907	387	Charter, § 236a, added.....	1921	559	1606
		Jefferson county:			
1913	364	Soldiers' and sailors' memorial hall in Watertown, § 2.....	1920	357	942
		Johnstown:			
1905	593	Charter, §§ 10, 21.....	1919	126	246
1905	593	Charter, § 72.....	1921	137	461
		Judiciary law amendments:			
1913	185	Retirement of employees by appellate division, second department. All repealed.....	1921	568	1711
1914	511	Retirement of employees by appellate division, third or fourth departments. All repealed.....	1921	568	1711
1915	557	Retirement of employees by appellate division, second department. All repealed.....	1921	568	1711
1919	221	Retirement of employees by appellate division, third or fourth departments. All repealed.....	1921	568	1711
		Jurors, commissioners of:			
1897	194	Onondaga county, § 6.....	1919	486	1223
1899	441	Counties generally, § 4, subd. 1.....	1921	259	961
1899	441	Counties generally, § 4, subd. 2.....	1920	819	2120
1899	441	Counties generally, § 4, subd. 3.....	1920	378	977
1899	441	Counties generally, § 6.....	1921	640	1670
1899	441	Counties generally, §§ 11, 13.....	1921	296	994
1901	602	New York county, § 2.....	1920	112	186
1902	564	Kings county, §§ 1-3.....	1921	412	1272
1904	232	Westchester county, § 7, amended; § 7a, added; § 13, amended.....	1920	569	1533

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		Kings county:			
1887	438	Assistant district attorneys, § 1.	1920	884	2196
1901	704	County clerk, § 2.	1920	543	1380
1901	704	County clerk, § 2.	1920	544	1381
1901	704	County clerk, § 2.	1921	586	1814
1901	706	Register, § 2.	1920	823	2125
1902	564	Commissioner of jurors, §§ 1-8.	1921	412	1272
1904	171	Commissioner of records, § 8.	1920	821	2123
		Kingston:			
1886	747	Charter, § 14.	1919	313	966
1896	747	Charter, § 14.	1920	441	1177
1896	747	Charter, §§ 29a, 30.	1919	313	967
1896	747	Charter, §§ 36a, 36b, added.	1920	441	1178
1896	747	Charter, §§ 57, 63, 69, 75, amended; §§ 93b, 113c, 172, 173, 175, added.	1919	313	967
		Laboratories handling pathogenic germs:			
1917	441	Registration and supervision, § 2.	1921	200	976
		Labor law amendments:			
1910	352	Employer's liability. All repealed.	1921	121	361
		Lackawanna:			
1909	574	Charter, §§ 14, 122.	1919	314	975
1909	574	Charter, §§ 235, 236, 238, 239.	1922	132	432
		Landlord and tenant:			
1920	136	Defenses in actions for rent.	1920	944	2480
1920	136	Defenses in actions for rent.	1921	434	1301
1920	136	Defenses in actions for rent, § 1, amended; §§ 1a, 4a, added; §§ 6, 11, 12, amended.	1922	664	1821
		Lawrence:			
1920	251	Made part of town of Hempstead, §§ 1, 2, repealed; new §§ 1, 2, added.	1921	692	244
		Le Roy:			
1911	499	Charter, § 21, subd. 32, added.	1921	321	1062
		Letchworth village:			
1909	446	Managers, grounds, etc., §§ 1-4, 8-11, repealed.	1919	633	1705
		Limestone creek:			
1917	751	Improvement, § 2.	1920	906	2269
		Little Falls:			
1895	565	Charter, §§ 11, 17, 53.	1919	94	184
1895	565	Charter, § 53.	1920	127	219
1895	565	Charter, § 53, subd. a; § 57.	1921	514	1593
		Lockport:			
1911	870	Charter, § 16.	1919	349	1045
1911	870	Charter, §§ 102, 103.	1919	316	977
1911	870	Charter, § 107.	1920	504	1302
1911	870	Charter, § 107.	1922	445	947

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF
CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1932 (Continued):

Year	Chapter	Subjects and Sections	Year	Chapter	Page
Lockport — (Continued).					
1911	870	Charter, § 113	1910	315	976
1911	870	Charter, §§ 129, 200	1910	316	979
1911	870	Charter, § 221	1910	505	1303
1911	870	Charter, § 228	1922	471	1004
1911	870	Charter, §§ 229, 234, 235	1922	445	947
1911	870	Charter, §§ 259, 263, 267, 268, amended; § 268a, added	1910	316	981
1911	870	Charter, § 288, amended; § 288a, added	1922	444	946
1911	870	Charter, § 289	1922	445	951
1911	870	Charter, art. 15, schedule of sections, §§ 338, 340-342, 344, 346, 348, 349, 350, subd. 6, §§ 355, 356, amended; §§ 357, 358, added	1920	622	1581
Long Beach:					
.....	.....	Charter	1922	635	1683
Long Island:					
1917	317	Canal to be constructed by United States, § 1	1910	15	24
Lyons:					
1907	750	Charter, § 4	1920	6	8
1907	750	Charter, § 4	1921	272	990
1907	750	Charter, §§ 8, 9, 14, 32, 35, 38, subd. 7, amended; § 38, subds. 27, 28, added; §§ 54, 55, 56, 62, 64-67, amended; § 131, repealed; § 132, amended	1920	6	9
Madison county:					
1891	64	County clerk, §§ 1, 3, 8	1920	401	1017
Manhattan Railway Company:					
1917	788	Removal of structure on 42d street, § 1a, added	1918	611	1609
Mechanicville:					
1915	170	Charter, § 11	1921	74	271
1915	170	Charter, §§ 14, 28, 46	1920	507	1306
1915	170	Charter, § 67	1921	74	271
1915	170	Charter, § 111	1921	74	272
1915	170	Charter, § 111	1921	515	1594
Medina:					
1909	545	Charter, § 39, subd. 25, added	1910	27	53
Methodist Episcopal Church:					
1873	175	Board of Foreign Missions, § 5	1920	100	269
Middletown:					
1902	572	Charter, tits. 1-13, amended; §§ 2, 3, 6, amended; §§ 9, 12, repealed; §§ 13-23, amended; § 24, repealed; §§ 26, 27, 29, amended; § 31, repealed; §§ 32, 34-36, 39, 41, 46, amended; §§ 48, 49, repealed; §§ 51, 52, 54, 57, 59, 63, amended; § 68a, repealed (See footnote, L. 1922, p. 1568); §§ 69, 70, amended; §§ 70a, 70b, repealed	1922	612	1568
1902	572	Charter, § 71	1921	56	236
1902	572	Charter, § 71	1922	613	1569
1902	572	Charter, § 72	1921	56	238

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 — (Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
1902	572	Middletown — (Continued). Charter, §§ 72, 73, 75, 76, 78-81, amended; §§ 84-86, repealed; §§ 91, 94, 95, amended; § 97, repealed; §§ 98, 99, 101, amended; §§ 102, 105, repealed; §§ 106, 107, 109, 110, amended; § 111, repealed; § 112, amended; §§ 112a, 113, repealed; § 114, amended; §§ 115, 116, repealed; § 117, amended; § 118, repealed; § 119, amended; § 120, repealed; §§ 122, 123, amended; § 124 repealed; § 125, amended; § 126, repealed; §§ 127-130, amended; §§ 132-135, amended; § 136, repealed; § 137, amended; §§ 139-141, 149, repealed; § 150, amended; § 151, repealed; § 154, amended; §§ 155, 156, repealed; §§ 157, 158, 160-164 (See footnote, L. 1922, p. 1613), 176-184, amended; § 185, repealed; 186-188, amended; § 189, repealed; §§ 192-194, amended; § 195, repealed; § 196, amended; §§ 198-200, repealed; §§ 201, 204, 205, amended; §§ 205a-205e, repealed (See footnote, L. 1922, p. 1589); §§ 206-208, amended; § 209, repealed; §§ 210, 211, amended; §§ 213, 214, 220, repealed.....	1922	612	1591
1918	485	Trunk sewer, §§ 1, 2.....	1922	472	1005
1921	559	Mohantic Lake Reservation: Sale of lands, buildings and premises. All repealed.....	1922	276	646
1944	157	Mohawk: Charter, § 9, subd. 6.....	1919	141	286
1984	107	Monroe county: Taxes, § 4.....	1922	90	263
1900	194	Montgomery county: Board of supervisors, § 1.....	1920	232	733
1904	508	Morrisania: Railway in towns of West Farms and Morrisania. All repealed.....	1922	490	1112
1892	182	Mount Vernon: Charter, § 25.....	1920	116	198
1892	182	Charter, § 36.....	1920	114	188
1892	182	Charter, § 44.....	1920	117	194
1892	182	Charter, § 134, subd. 3.....	1919	80	164
1892	182	Charter, § 134, subd. 3.....	1920	179	668
1892	182	Charter, § 134a, added.....	1921	87	291
1892	182	Charter, § 134a.....	1922	333	721
1892	182	Charter, § 205a, added.....	1922	513	1155
1892	182	Charter. All repealed.....	1922	490	1112
1904	456	Consolidation. All repealed.....	1922	490	1112
1895	243	Supplementing charter. All repealed.....	1922	490	1112
1895	710	Office of comptroller. All repealed.....	1922	490	1112
1906	265	Amends charter. All repealed.....	1922	490	1113
1906	692	Amends charter. All repealed.....	1922	490	1113
1906	774	Water supply. All repealed.....	1922	490	1113
1908	288	Amends charter. All repealed.....	1922	490	1113

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS CODE ON
CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 — (Continued).

Laws of	Chap- ter	SUBJECTS AND SECTIONS	Year	Chap- ter	Page
Mount Vernon — (Continued).					
1898	247	Sinking fund commission. All repealed.	1922	490	1113
1900	361	Amends charter. All repealed.	1922	490	1113
1900	564	Amends charter. All repealed.	1922	490	1113
1901	69	Office of comptroller. All repealed.	1922	490	1113
1901	202	Amends charter. All repealed.	1922	490	1113
1901	285	Amends charter. All repealed.	1922	490	1113
1901	329	Amends charter. All repealed.	1922	490	1113
1901	474	Amends charter. All repealed.	1922	490	1113
1902	375	Police pension fund, § 6.	1919	81	166
1902	610	Amends charter. All repealed.	1922	490	1113
1903	165	Amends charter. All repealed.	1922	490	1113
1903	402	Amends charter. All repealed.	1922	490	1113
1904	695	Amends charter. All repealed.	1922	490	1113
1905	85	Amends charter. All repealed.	1922	490	1113
1905	176	Paving and grading streets, §§ 1, 2.	1921	151	478
1905	473	Amends charter. All repealed.	1922	490	1113
1905	561	Unused balances transferred to general fund. All repealed.	1922	490	1113
1906	71	Amends charter. All repealed.	1922	490	1113
1906	204	Amends charter. All repealed.	1922	490	1113
1907	672	Amends charter. All repealed.	1922	490	1113
1908	115	Amends charter. All repealed.	1922	490	1113
1908	226	Amends charter. All repealed.	1922	490	1113
1908	341	Amends charter. All repealed.	1922	490	1113
1908	342	Amends charter. All repealed.	1922	490	1113
1908	384	Amends charter. All repealed.	1922	490	1113
1908	425	Unpaid taxes and assessments. All repealed.	1922	490	1113
1909	361	Repaving streets and highways, § 1.	1921	86	290
1909	361	Repaving streets and highways, § 1.	1922	173	490
1909	552	Municipal art commission. All repealed.	1922	490	1113
1910	51	Amends charter. All repealed.	1922	490	1113
1910	76	Office of comptroller. All repealed.	1922	490	1113
1910	306	Amends charter. All repealed.	1922	490	1113
1911	82	Amends charter. All repealed.	1922	490	1113
1911	550	Grade crossings, §§ 1, 2.	1921	88	292
1911	567	Streets, avenues, roads and highways. All repealed.	1922	490	1113
1911	676	Amends charter. All repealed.	1922	490	1113
1912	410	Amends charter. All repealed.	1922	490	1113
1912	430	Amends charter. All repealed.	1922	490	1113
1913	99	Amends charter. All repealed.	1922	490	1113
1914	225	Amends charter. All repealed.	1922	490	1113
1914	295	Office of comptroller. All repealed.	1922	490	1113
1915	612	Justice of peace abolished and jurisdiction conferred upon city judge. All repealed.	1922	490	1113
1916	310	Amends charter. All repealed.	1922	490	1113
1916	311	Repaving Columbus avenue, §§ 1, 2.	1921	109	333
1916	476	Amends charter. All repealed.	1922	490	1113
1917	427	Amends charter. All repealed.	1922	490	1113
1919	80	Amends charter. All repealed.	1922	490	1113
1920	114	Amends charter. All repealed.	1922	490	1113
1920	116	Amends charter. All repealed.	1922	490	1113
1920	117	Amends charter. All repealed.	1922	490	1113
1920	179	Amends charter. All repealed.	1922	490	1113
1921	87	Amends charter. All repealed.	1922	490	1113

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 — (Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
		Municipal employees:			
1918	414	State commission to investigate pensions, § 1a, added; § 5, amended.	1919	22	30
1918	414	State commission to investigate pensions, § 5.	1921	62	252
		Nassau county:			
1916	541	Collection of taxes, § 11.	1922	497	1120
1916	541	Collection of taxes, art. 7 (§§ 80-121), added.	1919	154	287
1916	541	Collection of taxes, §§ 80, 82.	1921	265	969
1916	541	Collection of taxes, § 83.	1921	265	970
1916	541	Collection of taxes, § 83.	1922	93	268
		Newburgh:			
1907	206	Police pension fund, § 2, subd. 7, added; § 3, subd. 9, added.	1922	666	1828
1917	590	Charter, § 2.	1922	562	1293
1917	590	Charter, § 3, repealed; new § 3, added.	1921	102	315
1917	590	Charter, §§ 91, 109, 111.	1920	436	1094
1917	590	Charter, § 130.	1919	357	1063
		Newburgh town:			
1853	44	Support of poor, § 6.	1920	388	999
		New Jersey:			
1919	178	Tunnel under Hudson river, § 5a, added.	1920	785	1920
1919	178	Tunnel under Hudson river, §§ 5b-5d, added.	1922	399	841
1919	178	Tunnel under Hudson river, § 7a, added.	1920	785	1921
		New Rochelle:			
1903	485	Firemen's benevolent fund association, § 1.	1921	105	325
1904	268	Police pension fund, §§ 3-6.	1921	651	2018
1910	559	Charter, § 12, amended; § 15, repealed; new § 15, added.	1922	496	1121
1910	559	Charter, §§ 18, 62, 67, amended; § 68a, added; §§ 102, 104, 106, amended.	1921	596	1896
1910	559	Charter, § 114.	1922	498	1122
1910	559	Charter, §§ 118-121, 167, 215, 216.	1921	596	1900
1910	559	Charter, art. 18 (§§ 271-273), repealed; new art. 18 (§§ 271-277), added.	1922	498	1122
1910	559	Charter, §§ 286, 287.	1921	596	1904
1910	559	Charter, art. 20 (§§ 301-305), repealed.	1922	496	1122
1910	559	Charter, § 302.	1921	596	1904
1910	559	Charter, § 322.	1922	498	1124
1910	559	Charter, § 386, repealed; § 456, amended; §§ 458a, 458b, added.	1921	596	1905
		New York Cancer Hospital:			
1884	429	Charter, title, §§ 2, 5.	1919	245	998
		New York city:			
1812	27	Register's office. All repealed.	1921	227	900
1813	86	Register, §§ 159-165, repealed.	1921	227	900
1813	86	Recording deeds, §§ 170-174, repealed.	1921	227	900
1830	58	Register's office. All repealed.	1921	227	900
1853	610	Register's office. All repealed.	1921	227	900
1892	303	Summary proceedings to remove monthly tenants, § 1.	1919	512	1418

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1910-1922—(Continued.)

Law of	Chap- ter	SUBJECTS AND SECTIONS.	Year	Chap- ter	Page
New York city — (Continued).					
1882	303	Summary proceedings to remove monthly tenants, § 1.	1919	649	1779
1882	303	Summary proceedings to remove monthly tenants, § 1.	1920	206	771
1882	410	Consolidation act, § 1503.	1920	822	2724
1882	410	Consolidation act, § 1503.	1922	488	1099
1882	410	Consolidation act, § 1505a.	1922	477	1071
1882	410	Consolidation act, § 1537.	1922	489	1040
1882	410	Consolidation act, § 1641.	1920	730	1799
1882	410	Consolidation act, §§ 1737-1765, repealed.	1921	227	900
1882	410	Consolidation act, § 2129.	1919	328	1099
1884	531	Register's office. All repealed.	1921	227	900
1887	376	Register's office. All repealed.	1921	227	900
1887	696	Charitable institutions exempt from water rents, § 1.	1921	607	1919
1889	449	Street paving. All repealed.	1919	510	1477
1890	523	Sheriff, § 1.	1919	558	1839
1890	523	Sheriff, § 1.	1920	565	1849
1891	4	Rapid transit act, § 37, subd. 1.	1921	608	1921
1891	352	Warden of the grand jury, § 1.	1920	511	1814
1892	642	Surrogate's court, § 4a, added.	1920	702	1749
1893	102	Public driveway, § 10.	1919	511	1477
1899	686	Compensation of volunteer firemen, §§ 1, 2.	1921	676	2389
1901	466	Charter, § 19.	1921	670	2389
1901	466	Charter, § 31.	1920	733	1794
1901	466	Charter, § 96.	1919	322	900
1901	466	Charter, § 96, 103, ch. 13, tit. 1, title.	1920	79	122
1901	466	Charter, § 106.	1919	322	900
1901	466	Charter, § 118a.	1919	44	108
1901	466	Charter, § 165.	1919	550	1809
1901	466	Charter, § 165.	1920	244	749
1901	466	Charter, § 166a, added.	1920	800	1949
1901	466	Charter, § 167.	1919	385	1077
1901	466	Charter, § 169, subd. 9.	1920	589	1514
1901	466	Charter, § 169, subd. 9.	1920	960	2607
1901	466	Charter, § 169, subd. 9.	1921	618	1937
1901	466	Charter, § 169, subd. 9.	1922	517	1166
1901	466	Charter, § 180.	1919	322	900
1901	466	Charter, § 186.	1920	792	1932
1901	466	Charter, § 188, subd. 8.	1920	729	1787
1901	466	Charter, § 188, subd. 8.	1920	961	2604
1901	466	Charter, § 189.	1920	713	1776
1901	466	Charter, § 205c, added.	1921	644	1931
1901	466	Charter, § 218b, added.	1921	617	1936
1901	466	Charter, § 221a.	1921	609	1923
1901	466	Charter, § 245.	1920	366	1022
1901	466	Charter, § 276b.	1919	514	1422
1901	466	Charter, § 276c, added.	1920	509	1312
1901	466	Charter, § 276c, added.	1920	708	1766
1901	466	Charter, § 276d, added.	1921	661	1937
1901	466	Charter, § 284.	1919	319	986
1901	466	Charter, § 288.	1920	740	1864
1901	466	Charter, § 288.	1922	656	1797
1901	466	Charter, § 303.	1920	824	2127
1901	466	Charter, § 307.	1920	739	1806
1901	466	Charter, § 308b, added.	1920	711	1768
1901	466	Charter, § 335.	1920	734	1795

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TABLES OF LAWS AMENDED OR REPEALED

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922—(Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
New York city—(Continued).					
1901	466	Charter, § 355	1919	518	1420
1901	466	Charter, § 355	1920	508	1300
1901	466	Charter, § 355	1921	685	2430
1901	466	Charter, § 355b, added	1921	619	1940
1901	466	Charter, § 357a, added; §§ 359, 360, 360a, 361-366, amended	1920	705	1758
1901	466	Charter, § 382	1920	443	1184
1901	466	Charter, § 383	1921	170	536
1901	466	Charter, § 402	1921	518	1508
1901	466	Charter, § 419	1922	661	1817
1901	466	Charter, § 423, added	1919	321	968
1901	466	Charter, § 423	1920	783	1916
1901	466	Charter, § 423a, added	1919	321	960
1901	466	Charter, § 423a	1920	783	1917
1901	466	Charter, § 423b, added	1919	321	960
1901	466	Charter, § 423b	1920	783	1917
1901	466	Charter, § 423c, added	1920	783	1918
1901	466	Charter, § 425	1921	670	2130
1901	466	Charter, § 428	1921	612	1931
1901	466	Charter, § 428	1922	474	1008
1901	466	Charter, § 432	1919	323	998
1901	466	Charter, § 433	1922	565	1299
1901	466	Charter, § 436	1920	787	1925
1901	466	Charter, § 595, subd. 1	1921	170	530
1901	466	Charter, § 604	1919	322	992
1901	466	Charter, § 607	1920	873	2213
1901	466	Charter, § 612c, added	1921	563	1703
1901	466	Charter, § 612d, added	1921	615	1934
1901	466	Charter, § 613, 619-623, 628	1920	873	2213
1901	466	Charter, § 657, added	1920	79	122
1901	466	Charter, § 683, repealed	1919	337	1014
1901	466	Charter, § 683, added	1921	204	843
1901	466	Charter, § 684	1919	337	1013
1901	466	Charter, § 685, repealed	1919	337	1014
1901	466	Charter, § 685, added	1921	204	843
1901	466	Charter, § 686-690, repealed	1919	337	1014
1901	466	Charter, § 716, 717. (See footnote 1, L. 1919, p. 1001.)	1919	326	1000
1901	466	Charter, § 718, subd. 3	1920	348	927
1901	466	Charter, § 790a, added	1921	619	1941
1901	466	Charter, § 792	1922	469	1124
1901	466	Charter, § 809a, 809b	1920	432	1087
1901	466	Charter, § 811a	1921	508	1909
1901	466	Charter, § 815a, subd. (a)	1920	432	1090
1901	466	Charter, § 815a, subd. (a)	1921	508	1910
1901	466	Charter, ch. 16, tit. 1, title, §§ 816, 817	1919	322	994
1901	466	Charter, § 818a	1919	330	1006
1901	466	Charter, § 819a, added	1920	809	2108
1901	466	Charter, § 821a, 823g	1919	322	995
1901	466	Charter, § 824b, added	1921	684	2429
1901	466	Charter, § 828, 830	1919	322	997
1901	466	Charter, § 832	1919	341	1026
1901	466	Charter, § 833	1919	322	997
1901	466	Charter, § 844	1921	611	1929
1901	466	Charter, § 902	1922	58	225

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922. (Continued).

Laws of	Chapter	SUBJECTS AND SECTIONS	Year	Chapter	Page
New York city — (Continued).					
1901	466	Charter, § 948.	1921	426	1280
1901	466	Charter, § 951.	1920	786	1922
1901	466	Charter, § 954.	1919	342	1026
1901	466	Charter, § 955.	1919	332	1007
1901	466	Charter, § 958.	1919	320	967
1901	466	Charter, § 958.	1922	475	1009
1901	466	Charter, § 970.	1922	568	1206
1901	466	Charter, § 971b, added.	1920	715	1772
1901	466	Charter, § 1022.	1919	329	1004
1901	466	Charter, § 1060, subd. 8, repealed.	1920	619	1586
1901	466	Charter, § 1092, subd. L, ¶ 5, added.	1920	791	1961
1901	466	Charter, § 1092, subd. O.	1920	784	1919
1901	466	Charter, § 1146, subd. B, ¶ 1.	1921	166	583
1901	466	Charter, § 1177.	1921	564	1704
1901	466	Charter, § 1226.	1921	566	1704
1901	466	Charter, § 1230a, added.	1919	333	1009
1901	466	Charter, § 1438.	1921	225	877
1901	466	Charter, § 1493a, added.	1921	225	878
1901	466	Charter, § 1541.	1922	638	1748
1901	466	Charter, § 1567.	1920	349	928
1901	466	Charter, § 1569c, added.	1921	171	541
1901	466	Charter, §§ 1575, 1575b, 1575c (except subd. 1, 1st sentence), §§ 1575d, 1575e, all, in part, repealed.	1921	227	900
1901	466	Charter, § 1583.	1922	58	226
1901	466	Charter, ch. 26 (§§ 1700-1724), added.	1920	427	1066
1902	550	Law department.	1921	602	1914
1905	530	Office of registrar. All repealed.	1921	227	901
1906	480	Office of registrar. All repealed.	1921	227	901
1907	412	Court of general sessions, §§ 2, 7.	1922	302	685
1907	412	Court of general sessions, § 8a, added.	1922	637	1747
1910	659	Inferior criminal courts act, § 22, added.	1921	223	876
1910	659	Inferior criminal courts act, § 31, subd. 3.	1921	600	1912
1910	659	Inferior criminal courts act, § 31, subds. 6, 7, added; § 34, amended.	1922	595	1521
1910	659	Inferior criminal courts act, § 34i.	1921	622	1944
1910	659	Inferior criminal courts act, § 43, subds. j, k, added.	1919	335	1014
1910	659	Inferior criminal courts act, § 43, subds. l, m, added.	1922	478	1012
1910	659	Inferior criminal courts act, § 52.	1921	645	1962
1910	659	Inferior criminal courts act, § 70.	1920	844	2162
1910	659	Inferior criminal courts act, § 74.	1919	339	1015
1910	659	Inferior criminal courts act, § 74, subd. d.	1922	595	1522
1910	659	Inferior criminal courts act, § 77.	1921	623	1945
1910	659	Inferior criminal courts act, § 77b, added.	1919	332	1008
1910	659	Inferior criminal courts act, § 83.	1919	516	1428
1910	659	Inferior criminal courts act, § 94.	1922	595	1522
1910	659	Inferior criminal courts act, § 100.	1920	844	2163
1910	659	Inferior criminal courts act, § 108a, added.	1921	226	879
1911	360	Police, health and efficiency, § 6a.	1920	732	1793
1914	479	Amends charter. All repealed.	1920	612	1556
1915	279	Municipal court code, § 3.	1920	710	1767
1915	279	Municipal court code, § 4.	1920	829	2134
1915	279	Municipal court code, § 5, subd. b, ¶¶ 1, 2.	1919	515	1423
1915	279	Municipal court code, § 6, subd. 3.	1919	650	1777
1915	279	Municipal court code, § 6, subd. 3.	1920	210	712
1915	279	Municipal court code, § 17.	1921	165	530

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New York city — (Continued).					
1915	279	Municipal court code, § 22, subd. 3.	1920	252	777
1915	279	Municipal court code, §§ 23, 26.	1919	166	322
1915	279	Municipal court code, § 70.	1920	253	778
1915	279	Municipal court code, § 118.	1919	327	1002
1915	279	Municipal court code, § 118.	1922	516	1164
1915	279	Municipal court code, § 119.	1919	340	1025
1915	279	Municipal court code, § 120.	1922	516	1164
1915	279	Municipal court code, § 173.	1920	510	1313
1915	279	Municipal court code, § 173.	1922	516	1165
1916	600	Office of register. All repealed.	1921	227	901
1917	788	Removal of structure of Manhattan Railway Company on 42d street, § 1a, added.	1919	611	1809
1918	506	Acquisition of lands under water in Atlantic ocean, §§ 1-5.	1920	731	1789
1918	506	Acquisition of lands under water in Atlantic ocean, §§ 1, 3, 4.	1921	610	1925
1920	329	Officers and employees engaged in military, naval or marine service, § 1.	1921	606	1918
New York College of Dental Surgery:					
1852	261	Charter, § 2.	1922	241	579
New York county:					
1812	27	Register's office. All repealed.	1921	227	900
1830	58	Register's office. All repealed.	1921	227	900
1853	610	Register's office. All repealed.	1921	227	900
1861	172	Part relating to register, repealed.	1921	227	900
1883	57	Part relating to register repealed.	1921	227	900
1884	530	Surrogate, §§ 6-9, repealed.	1921	163	529
1884	531	Register's office. All repealed.	1921	227	900
1887	376	Register's office. All repealed.	1921	227	900
1890	467	Part relating to register, repealed.	1921	227	900
1890	523	Sheriff, § 1.	1919	558	1539
1890	523	Sheriff, § 1.	1920	565	1438
1892	642	Surrogate's court, § 4a, added.	1920	702	1749
1893	536	Part relating to register repealed.	1921	227	901
1897	53	Register. All repealed.	1921	227	901
1898	280	Public administrator, § 3.	1919	334	1010
1901	665	Register's office. All repealed.	1921	227	901
1905	530	Register's office. All repealed.	1921	227	901
1906	480	Register's office. All repealed.	1921	227	901
1907	412	Court of general sessions, §§ 2, 7.	1922	302	685
1907	412	Court of general sessions, § 8a, added.	1922	637	1747
1910	682	Register's office. All repealed.	1921	227	901
1911	288	Court of general sessions, § 1.	1920	316	880
1912	220	Register's office. All repealed.	1921	227	901
1912	531	Clerks in district attorney's office, §§ 1, 2.	1920	728	1787
1915	490	Register's office. All repealed.	1921	227	901
1916	600	Register's office. All repealed.	1921	227	901
1921	163	Surrogate's court, § 1, subd. 18.	1922	246	600
New York port:					
1857	405	Reorganization of warden's office, §§ 1-5, amended; § 7, repealed; § 8, renumbered § 6, and amended; § 8a, repealed.	1921	202	836
1917	426	Commission to investigate, § 1.	1919	135	260

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1910-1922 (Continued)

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		New York state:			
1919	178	Tunnel under Hudson river, § 5a, added.	1920	785	1890
1919	178	Tunnel under Hudson river, §§ 5b-5d, added.	1920	348	1841
1919	178	Tunnel under Hudson river, § 7a, added.	1920	788	1891
1921	568	State employees' retirement system, § 1.	1922	104	279
		New York state bonds:			
1913	787	Relating to, § 1.	1921	355	1145
		New York state commission for blind:			
1913	414	Act creating, § 2a, added; § 5, amended.	1921	355	1142
		Niagara county:			
1894	422	County clerk. All amended.	1920	458	1122
		Niagara Falls:			
1916	530	Charter, § 7.	1920	633	1610
1916	530	Charter, § 13.	1920	633	11608
1916	530	Charter, § 68, subd. 3, §§ 73-76.	1920	358	1164
1916	530	Charter, §§ 101, 104.	1920	525	1187
1916	530	Charter, §§ 135, 149.	1919	364	1077
1916	530	Charter, §§ 185, 186, 189, 190, 192.	1922	515	1159
1916	530	Charter, § 193.	1920	307	1032
1916	530	Charter, § 196.	1922	515	1161
1916	530	Charter, § 197.	1921	307	1033
1916	530	Charter, § 197.	1922	515	1161
1916	530	Charter, § 200, amended; § 201, repealed; § 202, amended.	1922	515	1161
1916	530	Charter, § 203.	1921	307	1033
1916	530	Charter, § 203.	1922	515	1163
1916	530	Charter, § 208, amended; §§ 209, 215-230, repealed; § 213, amended; §§ 214, 214a-214u, added.	1921	307	1032
1916	530	Charter, § 232.	1922	515	1163
1916	530	Charter, §§ 265, 266.	1920	632	1600
1916	530	Charter, art. 15 (§§ 332-338), added.	1920	632	1612
		North Haven:			
1868	403	Bridge between Sag Harbor and North Haven, §§ 1, 2.	1922	299	683
		North Tonawanda:			
1907	752	Charter, tit. 13, § 8.	1910	517	1327
1907	752	Charter, tit. 21, § 1.	1910	26	93
1907	752	Charter, tit. 21, § 1.	1920	259	11617
1907	752	Charter, tit. 21, § 2.	1921	26	94
1907	752	Charter, tit. 21, § 2.	1922	259	617
1907	752	Charter, tit. 21, § 3.	1921	26	1005
1907	752	Charter, tit. 21, § 4, added.	1910	302	1373
		North:			
1914	34	Charter, §§ 19, 25, 44, 74, 134, 170, 171, 313, 314, 316.	1920	330	893
		Ogdensburg:			
1893	87	Charter, §§ 30a, 30b, added.	1921	65	256
1893	87	Charter, § 31, subd. 1.	1920	179	10091
1893	87	Charter, § 31, subd. 2.	1920	179	10091
1893	87	Charter, § 31a, added.	1921	66	10258

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Ogdensburg — (Continued).					
1893	87	Charter, §§ 48, 54, ...	1919	350	1045
1893	87	Charter, § 69	1920	256	781
1893	87	Charter, § 112, subd. 5	1920	257	782
Olean:					
1915	535	Charter, §§ 5, 6, 18, 19	1920	444	1185
1915	535	Charter, § 20	1920	48	83
1915	535	Charter, § 23	1921	135	459
1915	535	Charter, § 34, amended; §§ 34a, 36a, added; §§ 44, 54, 64, amended	1920	444	1186
1915	535	Charter, § 68, amended; § 68a, added	1921	519	1599
1915	535	Charter, § 75	1920	207	710
1915	535	Charter, § 78, subd. 48	1920	444	1190
Oneida:					
1911	648	Charter, § 71	1921	252	950
1911	648	Charter, § 89	1920	255	780
1911	648	Charter, § 97	1921	252	950
Oneida county:					
1902	559	Collection of taxes, § 6	1922	200	520
1902	559	Collection of taxes, § 8	1920	111	184
1908	418	Board of supervisors. All repealed	1920	362	959
1920	362	Board of supervisors, § 2	1922	578	1308
1921	646	Department of charities, tit. amended; §§ 1-4, amended; § 5, added	1922	274	639
Oneonta:					
1908	454	Charter, §§ 10, 13, subd. 1	1922	450	958
1908	454	Charter, § 14	1920	196	694
1908	454	Charter, § 14	1922	450	959
1908	454	Charter, § 19	1920	196	695
1908	454	Charter, § 78, subd. 8, amended; § 187, amended; § 243a, added; §§ 244-246, 247, subd. 6, amended; § 249, amended	1922	450	959
Orondaga county:					
1855	39	Reverting conveyances. All repealed	1921	30	99
1867	805	Collection of taxes, §§ 6, 9	1920	258	783
1917	83	County auditor, § 2	1920	353	936
Orange county:					
1901	83	Improvement of public highways, § 3	1921	9	10
1904	214	Sheriff, § 9	1922	103	278
Orphan House and Industrial School of the Holy Savior:					
1870	106	Charter, § 3	1922	81	253
Ossining:					
1910	657	Charter, §§ 10, 11, 13, 15	1920	200	699
1910	657	Charter, § 31, subd. 1	1920	115	199
1910	657	Charter, § 31, subd. 1	1921	112	336

IV. CHANGES IN LAWS OTHER THAN THE CONSOLIDATED LAWS, CODE OF CRIMINAL PROCEDURE AND PRACTICE ACTS, 1919-1922 (Continued).

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Ossining — (Continued).					
1910	667	Charter, § 31, subd. 1.....	1922	579	1269
1910	667	Charter, §§ 32, 33.....	1920	200	791
1910	667	Charter, § 34.....	1920	115	190
1910	667	Charter, § 37.....	1920	115	191
1910	667	Charter, § 37.....	1922	579	1269
1910	667	Charter, § 38.....	1920	115	192
1910	667	Charter, § 38.....	1921	112	336
1910	667	Charter, § 59.....	1920	115	192
1910	667	Charter, § 59.....	1922	579	1810
1910	667	Charter, § 75.....	1922	579	1311
1910	667	Charter, § 78.....	1920	200	702
1910	667	Charter, §§ 103-105; 106, amended; § 115, added.....	1922	579	1811
1910	667	Charter, §§ 151, 164.....	1921	112	336
Ossining Hospital Association:					
1917	189	Appropriation for, §§ 1-3.....	1919	432	1218
Oswego:					
1895	394	Charter, §§ 4, 5, 62.....	1922	596	1523
1895	394	Charter, § 94.....	1919	317	983
1895	394	Charter, § 119.....	1922	596	1524
1895	394	Charter, § 127.....	1920	124	216
1895	394	Charter, §§ 178-184, 186-188, 190, 193-196, 198, 201, 204, 207, 213a, 213c-213e, 213g.....	1922	596	1524
1895	394	Charter, § 219.....	1919	317	984
1895	394	Charter, tit. 10 (§§ 230-258).....	1922	597	1536
1895	394	Charter, § 238.....	1919	317	984
1895	394	Charter, § 260, subs. 5, 6, amended; § 260, subd. 8d, added.....	1922	596	1532
1895	394	Charter, § 333.....	1919	317	984
1895	394	Charter, § 388.....	1920	125	217
1895	394	Charter, tit. 18 (§§ 417-433), added.....	1922	596	1532
Oswego county:					
1897	290	Supervisor, § 1.....	1920	332	984
Owego:					
1851	111	Charter, § 18.....	1919	31	80
1851	111	Charter, §§ 27, 28, 39, 40, 64.....	1920	47	88
Oyster Bay:					
1852	210	Common lands; lease and regulation. All repealed.....	1920	157	257
1886	51	Common lands; lease and regulation. All repealed.....	1920	157	257
Pallades interstate park:					
1900	170	Commission, § 2.....	1920	283	828
1900	170	Commission, § 5.....	1922	79	251
1900	170	Commission, § 10.....	1919	6	9
Parol commission in first-class cities:					
1915	579	Establishment, § 2.....	1919	242	845
Pathogenic germs, laboratories handling:					
1917	411	Registration and supervision, § 2.....	1921	269	976

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Peekskill:					
1872	281	Water commissioners, § 10.....	1920	98	160
1883	117	Charter, tit. 7, § 8.....	1920	87	152
1883	147	Charter, tit. 9, § 2.....	1919	69	146
1883	117	Charter, tit. 10, § 1.....	1919	66	145
1883	117	Charter, tit. 10, § 1.....	1920	86	151
1901	49	Police justice, § 4.....	1920	95	166
Penitentiaries:					
1915	579	Extension of functions, § 2.....	1919	242	845
Pensions:					
1918	414	State commission to investigate, § 1a, added; § 5, amended.....	1919	22	30
1918	414	State commission to investigate, § 5.....	1920	4	7
1918	414	State commission to investigate, § 5.....	1921	62	252
Plattsburgh:					
1902	269	Charter, §§ 11, 23, 28.....	1919	352	1040
1902	269	Charter, § 36a, added.....	1922	152	458
1902	269	Charter, § 50.....	1919	352	1053
1902	269	Charter, § 52, repealed.....	1922	152	459
1902	269	Charter, § 62, amended; §§ 62a-62e, added.....	1920	626	1618
Plattsburgh centenary:					
1913	730	Commission, § 1.....	1921	426	1291
Police in first and second class cities:					
1911	860	Health and efficiency, § 6a.....	1920	732	1793
Port Chester:					
1868	818	Charter, tit. 7, § 9.....	1921	113	338
1899	517	Paving or macadamising of streets. All repealed.....	1922	277	652
1903	285	Police department, § 16, subd. 9, added; § 17, subd. 10, amended.....	1921	111	335
1906	166	Police justice, § 5.....	1921	114	339
Port Jervis:					
1907	745	Charter, § 54.....	1919	5	7
1907	753	Charter, § 71.....	1919	351	1047
1907	753	Charter, § 71.....	1921	523	1605
1907	753	Charter, § 72.....	1919	351	1048
Port Jervis Water Works Company:					
1868	755	Charter, § 2.....	1921	122	361
Port wardens:					
1857	495	Port of New York, §§ 1-5, amended; § 7, repealed; § 8, renumbered § 6, and amended; § 8a, repealed.....	1921	202	596
Poughkeepsie:					
1896	425	Charter, §§ 11, 48, 49, 64, 100, subd. 4.....	1920	358	944
1896	425	Charter, § 100, subd. 4.....	1921	521	1602
1896	425	Charter, § 100, subd. 4, added; §§ 111, 112, 114, 116, subd. 2, § 117, amended.....	1920	358	945

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1916	594	Prisons, commission on new: Act to reorganize. All repealed.....	1919	524	1448
1870	14	Protestant Episcopal church: Fund for aged and infirm clergymen, diocese of Albany, §§ 6, 7, added.....	1919	269	888
1870	15	Fund for widows and orphans, diocese of Albany, §§ 6, 7, added.....	1919	268	886
1872	193	Psi Upsilon fraternity: Charter of Psi Chapter at Clinton, §§ 1, 3.....	1920	74	117
1900	501	Public administrator: Salary, Queens county, § 4.....	1920	778	1910
1921	249	Public health: Department in cities, § 1.....	1922	197	518
1918	585	Public works: Contracts for construction, § 5.....	1920	861	2192
1918	585	Increased cost and expense, § 11.....	1921	711	2499
1900	180	Putnam county: Unpaid taxes in towns, § 6.....	1920	372	969
1916	342	Quarantine establishment: Transfer to United States, § 1.....	1920	956	2493
1900	501	Queens county: Public administrator, § 4.....	1920	778	1910
1911	572	District attorney. All repealed.....	1921	161	527
1915	579	Reformatories: Extension of functions, § 2.....	1919	242	845
1819	110	Reformed Protestant Dutch Church, General Synod: Charter, §§ 1, 2.....	1920	451	1199
1915	69	Rensselaer: Charter, §§ 12, 16, 20, 25, 45, subd. 7, §§ 50, 75, 220...	1920	866	2197
1920	136	Rents: Defenses in actions for rent.....	1920	944	2480
1920	136	Defenses in actions for rent.....	1921	434	1301
1920	136	Defenses in actions for rent, § 1, amended; §§ 1a, 4a, added; §§ 6, 11, 12, amended.....	1922	664	1821
1813	86	Revised laws: Register of New York city, §§ 159-165, repealed.....	1921	227	900
1813	86	New York city, recording deeds, §§ 170-174, repealed...	1921	227	900
1884	509	Richfield Springs: Charter, § 25, amended; § 29, subd. 14a, added; §§ 37, 44, 47, 51, 52, amended; §§ 54, 55, repealed; new §§ 54, 55, added; §§ 55a, 55b, added.....	1922	72	240

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1914	265	Richmond county:			
1921	43	District attorney, §§ 3, 4	1920	795	1936
		Indexing conveyances, mortgages and other instruments, §§ 1, 4, 5, 11, 13, 14, 20, 23, 29, 30, 32, amended; schedule D, repealed; schedules A-C, amended	1922	503	1130
		Rochester:			
1907	755	Charter, § 2	1920	431	1082
1907	755	Charter, § 2	1921	524	1606
1907	755	Charter, §§ 2a, 2b, added	1921	569	1712
1907	755	Charter, § 3, subds. 14, 17, 20, 22	1922	519	1169
1907	755	Charter, § 21	1919	131	253
1907	755	Charter, § 62	1921	292	1009
1907	755	Charter, § 86, subd. 1	1921	292	1009
1907	755	Charter, § 86, subd. 4, added	1921	524	1606
1907	755	Charter, § 91	1920	431	1083
1907	755	Charter, § 91	1921	524	1606
1907	755	Charter, § 92	1920	431	1083
1907	755	Charter, § 96	1919	131	254
1907	755	Charter, § 96	1920	514	1332
1907	755	Charter, § 126	1921	524	1606
1907	755	Charter, § 149	1921	526	1616
1907	755	Charter, § 163	1921	526	1616
1907	755	Charter, § 172	1919	131	255
1907	755	Charter, § 202	1921	524	1606
1907	755	Charter, § 291, subd. 2	1921	524	1606
1907	755	Charter, § 292	1921	524	1606
1907	755	Charter, § 295, added	1921	524	1606
1907	755	Charter, §§ 316, 317	1921	292	1012
1907	755	Charter, §§ 345, 346	1922	519	1179
1907	755	Charter, §§ 350-352	1921	292	1012
1907	755	Charter, § 381	1922	519	1180
1907	755	Charter, § 405, subds. 2, 4-6, repealed; subds. 2, 4, 5, added	1921	526	1616
1907	755	Charter, § 416	1921	524	1606
1907	755	Charter, § 438	1919	156	306
1907	755	Charter, § 438	1920	431	1084
1907	755	Charter, § 442	1919	156	307
1907	755	Charter, § 442	1920	431	1085
1907	755	Charter, §§ 444, 446	1919	156	307
1907	755	Charter, § 455	1921	524	1606
1907	755	Charter, § 466	1921	525	1611
1907	755	Charter, § 466	1922	483	1020
1907	755	Charter, § 488, subds. 1, 4, 8, 12, 13; § 489, subd. (c); §§ 492-499, 505, 507, 509, 511, 512, ¶ (a); § 513	1922	483	1020
1907	755	Charter, § 515, subd. (a)	1921	525	1612
1907	755	Charter, § 516, subd. 5; §§ 517-519	1922	483	1021
1907	755	Charter, § 521	1921	525	1612
1907	755	Charter, § 521	1922	483	1029
1907	755	Charter, § 522	1922	483	1030
1907	755	Charter, § 523, added	1921	525	1614
1907	755	Charter, § 524, added	1921	525	1615
1907	755	Charter, § 524a, added	1920	434	1092
1907	755	Charter, § 524a, renumbered § 522, and amended	1921	525	1612

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		Rochester — (Continued).			
1907	755	Charter, § 625.....	1919	156	308
1907	755	Charter, § 631, subds. 1, 9, 10, re-enacted; § 631, subds. 30-42, added.....	1922	519	1180
1907	755	Charter, § 633.....	1920	431	1086
1907	755	Charter, § 635.....	1921	292	1009
1907	755	Charter, § 636, subd. 1, re-enacted.....	1922	519	1183
		Rochester United Charities:			
1910	311	Charter, title, §§ 1-4, 6, amended; § 5, repealed.....	1919	62	133
		Rockland county:			
1905	265	Sheriff, § 9.....	1920	224	726
		Rome:			
1904	650	Charter, § 147.....	1919	365	1078
1904	650	Charter. All repealed.....	1921	679	2422
1906	18	Bonds for street improvement. All repealed.....	1921	679	2422
1905	14	Amends charter. All repealed.....	1921	679	2422
1905	468	Amends charter. All repealed.....	1921	679	2422
1906	651	Amends charter. All repealed.....	1921	679	2422
1907	327	Amends charter. All repealed.....	1921	679	2422
1908	245	Amends charter. All repealed.....	1921	679	2422
1908	393	Election of justice of the peace.....	1921	679	2422
1909	321	Police pension fund.....	1921	679	2422
1909	575	Amends charter. All repealed.....	1921	679	2422
1909	576	Salary of aldermen. All repealed.....	1921	679	2422
1910	338	Term of office of policemen.....	1921	679	2422
1911	131	Amends charter. All repealed.....	1921	679	2422
1911	708	Amends charter. All repealed.....	1921	679	2422
1912	327	Sewage disposal plant. All repealed.....	1921	679	2422
1912	442	Amends charter. All repealed.....	1921	679	2422
1912	443	Amends charter. All repealed.....	1921	679	2422
1915	571	Amends charter. All repealed.....	1921	679	2422
1915	573	Amends charter. All repealed.....	1921	679	2422
1916	161	Amends charter. All repealed.....	1921	679	2422
1917	185	Firemen's relief and pension fund. All repealed.....	1921	679	2422
1917	424	Amends charter. All repealed.....	1921	679	2422
1918	498	Amends charter. All repealed.....	1921	679	2422
1918	542	Amends charter. All repealed.....	1921	679	2422
		Charter.....	1921	679	2296
		Rome town:			
1854	396	Drainage of Rome swamp. All repealed.....	1919	430	1217
		Roosevelt memorials:			
1920	839	Commission, § 1.....	1921	16	23
1920	839	Commission, § 1.....	1922	29	27
		Rotterdam:			
1901	220	Compensation of assessors, § 1.....	1919	59	129
		Round Lake Camp Meeting Association:			
1868	617	Charter, § 8a, added.....	1920	41	81

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1868	403	Sag Harbor: Bridge between Sag Harbor and North Haven, §§ 1, 2.	1922	299	683
1855	39	Saint Lawrence county: Recording conveyances. All repealed.....	1921	30	99
1869	288	Saint Lawrence University: Law department, § 2, added.....	1922	454	965
1861	254	Saint Stephen's College: Charter, § 1.....	1920	206	708
1902	6	Saratoga county: Assistant district attorney, § 3, repealed.....	1921	148	476
1915	489	Conferring jurisdiction on county court over offenses against children. All repealed.....	1922	547	1274
1882	53	Saratoga Springs: Town hall, § 1.....	1921	484	1503
1860	190	Saugerties: Ferry across Hudson river, §§ 2, 3.....	1921	395	1234
1861	31	Saugerties town: Police justice, title.....	1920	575	1456
1861	31	Police justice, election, § 1.....	1920	336	911
1861	31	Police justice, § 6a, added.....	1920	575	1456
1862	109	Schenectady: Fire department, § 1.....	1920	203	704
1907	756	Charter, § 28, repealed; § 29, amended.....	1920	446	1191
1907	756	Charter, § 201a.....	1920	204	705
1907	756	Charter, § 206, repealed; new § 206, added; § 226h, repealed.....	1920	446	1192
1917	735	Schenectady-Scotia bridge: Construction, § 1.....	1919	634	1706
1917	735	Construction, §§ 1, 2.....	1922	436	920
1917	735	Construction, §§ 4, 5.....	1919	634	1707
1917	735	Construction, § 8.....	1919	634	1708
1917	735	Construction, § 8.....	1922	436	921
1917	735	Construction, § 10.....	1919	634	1709
1917	735	Construction, § 13, repealed; new § 13, added.....	1919	634	1709
1917	735	Construction, § 13.....	1922	436	922
1867	389	Seneca Falls town: Schools, §§ 4-6, 12.....	1919	522	1440
1867	389	Schools. All repealed.....	1922	435	920
1916	172	Sherrill: Charter, §§ 2, 47.....	1921	527	1618
1916	172	Charter, § 173.....	1919	354	1058
1916	172	Charter, § 227, repealed.....	1920	512	1329
1920	512	Sherrill-Kenwood water district: Act creating, § 1.....	1922	138	445
1920	512	Act creating, § 15a, added.....	1921	437	1306

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1913	625	Sites, grounds and buildings commission: Act establishing. All repealed.....	1919	140	266
1920	958	Soldiers, sailors and marines: Hospital for mental diseases.....	1922	5	3
1919	147	Southampton town: Receiver of taxes. All repealed.....	1920	311	876
1912	518	South bay: Rebuilding of bridge across, title, § 1.....	1920	908	2274
1867	490	Spencerport: Charter, § 1.....	1922	205	526
1911	898	State arsenal: Sale; purchase of new lands and buildings, §§ 1, 2, amended; §§ 3-5, repealed.....	1920	584	1508
1913	787	State bonds: Relating to, § 1.....	1921	358	1145
1920	912	State boxing commission: Created.....	1921	714	2505
1920	794	State charities law amendments: Retirement of employees. All repealed.....	1921	568	1711
1919	123	State council of defense: Repeal; disposition of records, § 3.....	1920	355	939
1918	414	State employees: State commission to investigate pensions, § 1a, added; § 5, amended.....	1919	22	30
1918	414	State commission to investigate pensions, § 5.....	1920	4	7
1918	414	State commission to investigate pensions, § 5.....	1921	62	252
1918	556	Increased compensation during war, § 1.....	1919	603	1598
1918	556	Increased compensation during war. All repealed.....	1919	602	1598
1921	568	Retirement system, § 1.....	1922	104	279
1906	467	State Farm for Women: Act establishing, §§ 4-10, 10a, 11, repealed.....	1920	53	97
1913	625	State institutions: Commission on sites, grounds and buildings. All repealed.....	1919	140	266
1917	146	State park: Appropriation to acquire lands, § 8.....	1920	605	1545
1910	392	State printing law amendments: Extra copies of reports. All repealed.....	1921	337	1118
1915	193	Extra copies of reports. All repealed.....	1921	337	1118
1890	323	Steuben county: County clerk, § 3.....	1922	204	526

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		Suffolk county:			
1902	131	Sheriff, §§ 1, 3, 9.....	1920	176	664
1910	138	Receiver of taxes, town of Huntington. All repealed.....	1920	311	876
1911	18	Receiver of taxes, town of Babylon. All repealed.....	1920	311	876
1916	107	County auditor, §§ 2, 6.....	1920	35	73
1919	147	Receiver of taxes, town of Southampton. All repealed.....	1920	311	876
1919	428	Receiver of taxes, town of Islip. All repealed.....	1920	311	876
1920	311	Collection of taxes, §§ 11, 13, amended; § 13a, added; §§ 22, 23, amended; § 23a, added; §§ 25, 27, 30, amended.....	1921	104	319
		Summary proceedings:			
1920	137	Act in relation to, title, § 1.....	1920	948	2486
		Syracuse:			
1885	26	Charter, § 3.....	1920	574	1450
1885	26	Charter, § 3.....	1921	531	1630
1885	26	Charter, § 3.....	1922	166	490
1885	26	Charter, § 3.....	1922	261	619
1885	26	Charter, § 4, subd. 1.....	1922	164	477
1885	26	Charter, § 4, subd. 5.....	1920	574	1455
1885	26	Charter, § 4, subd. 7.....	1922	164	478
1885	26	Charter, § 4, subds. 10, 13.....	1921	531	1630
1885	26	Charter, § 23, subd. 6, repealed.....	1921	530	1629
1906	681	Department of finance, § 11, added.....	1920	573	1449
1905	681	Department of finance, § 11, added.....	1921	37	105
1905	681	Department of finance, § 12, added.....	1921	530	1629
1905	684	Department of public works, § 3.....	1920	359	953
1905	684	Department of public works, § 7.....	1922	652	1789
1905	684	Department of public works, § 19a, added.....	1921	28	97
1905	684	Department of public works, § 30.....	1921	570	1714
1905	685	Department of public safety, § 1.....	1919	359	1066
1905	685	Department of public safety, § 3.....	1921	529	1623
1905	685	Department of public safety, §§ 32, 34, 35, 37, 39-41.....	1919	359	1067
1906	75	Department of assessment and taxation, §§ 3-5, amended; §§ 6, 7, repealed.....	1921	528	1621
1906	75	Department of assessment and taxation, § 8.....	1922	651	1786
1906	75	Department of assessment and taxation, §§ 10, 11, amended; § 12, repealed; § 14, amended.....	1921	528	1624
1906	75	Department of assessment and taxation, § 16.....	1921	571	1715
1906	75	Department of assessment and taxation, § 17, repealed; § 43, amended.....	1921	528	1627
1906	520	Municipal court, § 9.....	1920	260	787
1906	520	Municipal court, §§ 14, 21, 26, 27.....	1922	484	1031
1906	520	Municipal court, § 35.....	1920	260	789
1906	520	Municipal court, § 39.....	1919	360	1071
1906	520	Municipal court, §§ 40-44, renumbered §§ 46-50; §§ 40-45, added.....	1922	484	1033
1906	586	Park commission. All repealed.....	1922	544	1249
1906	631	Water department, § 4a, added.....	1920	45	85
1907	356	Intercepting sewers, § 4.....	1920	572	1445
1907	356	Intercepting sewers, § 4.....	1921	209	854
1907	356	Intercepting sewers, §§ 9c-9f, added.....	1920	572	1446
1907	356	Intercepting sewers, § 11.....	1920	572	1447

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		Syracuse — (Continued).			
1907	356	Intercepting sewers, § 11.....	1921	209	855
1910	676	Court of special sessions, §§ 3, 19.....	1920	144	237
1912	533	Grade crossings, § 1.....	1921	27	96
1914	300	Department of public works, § 2.....	1921	60	262
1920	445	Improvement of streets, § 1.....	1922	506	1138
1920	447	City planning commission, §§ 1-4, amended; § 5, re-numbered § 10; §§ 5-9, added.....	1922	544	1245
		Syracuse University:			
1887	414	Charter, § 2, repealed; new § 2, added; § 5, amended...	1920	81	146
1911	851	State College of Forestry, § 2, subd. 2, amended; § 4, subd. 5, added; § 4, subd. 5, renumbered subd. 6....	1919	536	1481
		Ten Broeck Free Academy:			
1862	353	Charter, §§ 4, 6, 7, amended; § 7a, added.....	1920	337	912
		Tivoli:			
1860	190	Ferry across Hudson river, §§ 2, 3.....	1921	395	1284
		Tonawanda:			
1905	357	Charter, tit. 2, § 6, subds. 2, 4.....	1919	355	1059
1905	357	Charter, tit. 2, § 6, subd. 4.....	1920	350	929
1905	357	Charter, tit. 2, § 6, subd. 9.....	1919	355	1060
1905	357	Charter, tit. 2, § 6, subd. 9.....	1920	350	929
1905	357	Charter, tit. 2, § 7, subd. 4.....	1919	355	1060
1905	357	Charter, tit. 2, § 7, subd. 4.....	1920	350	929
1905	357	Charter, tit. 2, § 7, subd. 5.....	1919	355	1060
1905	357	Charter, tit. 2, § 7, subds. 5, 6, amended; subd. 7, added	1920	350	930
1905	357	Charter, tit. 6, § 3.....	1920	350	932
1905	357	Charter, tit. 8, § 4.....	1921	535	1642
1905	357	Charter, tit. 9, §§ 2, 3.....	1921	535	1643
1905	357	Charter, tit. 10, § 4.....	1921	535	1644
1905	357	Charter, tit. 14, schedule of sections.....	1919	356	1062
1905	357	Charter, tit. 14, § 1.....	1920	350	931
1905	357	Charter, tit. 14, § 4, added.....	1919	356	1062
1905	357	Charter, tit. 16, § 1.....	1921	535	1644
1905	357	Charter, tit. 17, § 1, subd. 4.....	1920	350	932
1905	357	Charter, tit. 17, § 1, subds. 6, 8.....	1919	355	1061
1905	357	Charter, tit. 17, § 1, repealed; new § 1, added.....	1921	535	1645
1905	357	Charter, tit. 17, § 2.....	1921	535	1646
1905	357	Charter, tit. 18, §§ 3a-3h, added.....	1922	535	1319
1905	357	Charter, tit. 20, § 7.....	1921	535	1646
1905	357	Charter, tit. 20, § 20a, repealed.....	1921	574	1718
1905	357	Charter, tit. 20, § 27, added. (See footnote, L. 1920, p. 933.).....	1920	351	933
1905	357	Charter, tit. 21, § 2.....	1920	350	932
1905	357	Charter, tit. 21, § 6.....	1919	355	1061
1905	357	Charter, tit. 21, § 6, repealed.....	1920	350	933
.....	.....	Charter.....	1920	804	1957
		Town boards of education:			
1918	199	Act repealing and restoring former conditions, § 7a, added.....	1919	183	768
1918	199	Act repealing and restoring former conditions, § 11a, added.....	1919	561	1543

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		Troy:			
1892	670	Charter, tit. 4, § 3.....	1922	458	972
1902	315	Public driveway. All repealed.....	1922	457	972
1904	617	Police pension fund, § 2, subds. 7a, 7b, added.....	1920	515	1334
1915	647	City court, art. 5, repealed; new art. 5 (§§ 138-143), added.....	1920	749	1842
1916	563	River and dock improvement, §§ 1, 5.....	1921	537	1648
		Troy and Green Island Bridge Company:			
1893	330	Charter. All repealed.....	1919	400	1149
		United Charities of Rochester:			
1910	311	Charter, title, §§ 1-4, 6, amended; § 5, repealed.....	1919	62	133
		Utica:			
1862	18	Charter, § 51.....	1920	187	662
1862	18	Charter, § 99, subd. 2.....	1921	575	1719
1882	103	Court of civil and criminal jurisdiction, §§ 5a, 35a, added.....	1920	517	1338
1897	738	Board of assessors, § 9, subd. 2.....	1922	486	1035
1898	72	Compensation of election officers. All repealed.....	1920	208	711
1906	393	Police pension fund, § 1, subd. 4.....	1920	516	1335
1906	393	Police pension fund, § 1, subd. 4.....	1922	508	1146
1906	393	Police pension fund, § 4.....	1920	516	1335
1906	393	Police pension fund, § 4.....	1922	508	1146
1906	393	Police pension fund, § 5.....	1920	516	1336
1906	393	Police pension fund, § 5.....	1922	508	1146
1906	393	Police pension fund, § 6, subds. 1, 2.....	1920	516	1338
1907	161	Firemen's pension fund, § 1, subd. 2, repealed; § 2, subd. 4, amended; § 2, subd. 5, repealed; § 2, new subd. 5, added.....	1921	92	305
1913	307	Extension of boundaries, § 3.....	1921	89	293
		Utica Female Academy:			
1837	284	Charter, §§ 2-4, 6, repealed.....	1921	5	7
1849	253	Capital stock. All repealed.....	1921	5	7
1865	419	Rebuilding. All repealed.....	1921	5	7
1886	360	Authority to hold property. All repealed.....	1921	5	7
1910	82	Trustees. All repealed.....	1921	5	7
		Washington county:			
1897	117	Sheriff, § 11.....	1922	123	418
		Waterford town:			
1911	652	Saratoga avenue title, §§ 1, 3.....	1922	25	22
		Water power commission:			
1921	579	Act creating, § 4.....	1922	242	594
		Watertown:			
1897	760	Charter, §§ 51, 55, amended; § 55a, added.....	1920	660	1664
1897	760	Charter, § 58.....	1920	669	1663
1897	760	Charter, § 92.....	1920	518	1340
1897	760	Charter, §§ 105, 106.....	1920	386	987
1897	760	Charter, § 118.....	1920	660	1667

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		Watertown — (Continued).			
1897	760	Charter, § 120, amended; § 121, repealed; new § 121, added; §§ 128, 139, amended; § 140, repealed; new § 140, added; §§ 141, 151, 153, 158, amended.	1920	386	988
1897	760	Charter, § 158c, subd. 6, amended; § 158f, subd. 6, amended; § 158f, subd. 7, repealed.	1920	660	1667
1897	760	Charter, § 163, repealed; new § 163, added; § 164, repealed; § 168, amended; § 170, repealed; new § 170, added.	1920	386	991
1897	760	Charter, § 173.	1920	659	1663
1897	760	Charter, § 174.	1920	580	1465
1897	760	Charter, § 174.	1920	659	1664
1897	760	Charter, §§ 175-182, 184, 185, 187-190, 205-207.	1920	580	1466
1913	364	Soldiers' and sailors' memorial hall, § 2.	1920	357	942
1920	276	Nonpartisan primaries and elections, §§ 7, 9-11, amended; § 12, repealed; §§ 13-15, 17, 18, amended.	1922	460	975
		Watervliet:			
1918	462	Charter, § 94.	1919	527	1453
1918	462	Charter, § 193, repealed.	1921	677	2185
		Watkins:			
1863	69	Union school district, § 21.	1922	324	707
1918	36	Charter, § 13.	1922	215	538
		Wayne county:			
1892	294	Collection of taxes. All repealed.	1921	239	925
		West Canada creek:			
1854	200	Public highway for logs and lumber, §§ 1-3, amended; § 4, re-enacted; §§ 5-9, repealed; new § 5, added.	1921	704	2436
		Westchester county:			
1399	686	Portion annexed to New York city, §§ 1, 2.	1921	676	2183
1916	105	Taxes and assessments, § 16a, added.	1920	31	45
1916	105	Taxes and assessments, § 33.	1919	528	1455
1916	105	Taxes and assessments, § 34.	1920	107	179
1916	242	Commissioner of charities and corrections, § 3.	1921	457	1352
1916	242	Commissioner of charities and corrections, § 6.	1919	526	1452
1916	242	Commissioner of charities and corrections, § 6.	1921	457	1352
1916	242	Commissioner of charities and corrections, § 10, added.	1921	457	1352
1917	415	Publication of official notices. All repealed.	1921	309	1044
1917	646	Trunk sewer, § 2, subd. (c), § 11.	1922	473	1006
		West Farms town:			
1894	598	Railway in towns of West Farms and Morrisania. All repealed.	1922	490	1112
		White Plains:			
1915	356	Charter, § 4.	1922	521	1185
1915	356	Charter, §§ 8, 9, amended; §§ 9a, 9b, added; §§ 10, 20, amended.	1921	627	1950
1916	356	Charter, §§ 34, 36.	1921	322	1062
1915	356	Charter, § 66.	1919	124	222
1915	356	Charter, § 67.	1922	521	1186
1915	356	Charter, § 73; art. 6, schedule of sections; § 84.	1919	124	222
1915	356	Charter, § 85.	1920	151	246

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1915	356	Charter, § 87	1919	124	226
1915	356	Charter, §§ 89, 90	1920	151	247
1915	356	Charter, §§ 92, 94, 97, 100, 101	1922	521	1187
1915	356	Charter, §§ 106-107, repealed; § 108, amended; § 109, repealed; art. 7, schedule of sections; §§ 117, 140, 166, amended	1919	124	222
1915	356	Charter, § 167	1921	322	1062
1915	356	Charter, §§ 175-177	1919	124	232
1915	356	Charter, § 183	1921	322	1062
1915	356	Charter, § 183	1922	521	1191
1915	356	Charter, § 185	1921	322	1062
1915	356	Charter, §§ 187, 199, 212, 217	1919	124	233
1915	356	Charter, § 235	1919	124	236
1915	356	Charter, § 235	1921	322	1062
1915	356	Charter, §§ 240, 246; art. 13, schedule of sections; §§ 301, 302	1919	124	237
1915	356	Charter, § 302	1922	521	1192
1915	356	Charter, § 303, renumbered § 306, and amended; §§ 304-309, renumbered §§ 307-312; §§ 303-306, added	1919	124	241
1915	356	Charter, §§ 305, 306	1922	521	1193
Workhouses:					
1915	579	Parole commission, § 2	1919	242	845
World war service ribbon:					
1920	672	Providing for, title, § 1	1922	149	455
1919	122	Providing for, § 2	1921	142	468
Yonkers:					
1908	452	Charter, art. 1, § 3	1921	576	1721
1908	452	Charter, art. 3, § 2a, added	1919	342	1027
1908	452	Charter, art. 4, § 1, repealed; §§ 2, 3, renumbered §§ 4, 5; §§ 1-3, added	1919	32	83
1908	452	Charter, art. 5, § 2	1921	91	302
1908	452	Charter, art. 5, § 4	1919	32	85
1908	452	Charter, art. 5, § 6	1919	32	85
1908	452	Charter, art. 5, § 6	1921	541	1666
1908	452	Charter, art. 5a, § 1	1922	487	1037
1908	452	Charter, art. 5a, §§ 2, 3	1919	32	86
1908	452	Charter, art. 5a, § 9a, added	1919	342	1028
1908	452	Charter, art. 5a, § 17, amended; § 23, added	1919	32	88
1908	452	Charter, art. 5a, §§ 24-29, added	1919	344	1031
1908	452	Charter, art. 11, § 2, subd. 7, repealed; new subd. 7, added; art. 12, § 1, subd. 5, repealed; new subd. 5, added	1919	342	1028
1908	452	Charter, art. 13, § 4	1919	343	1029
1908	452	Charter, art. 13, § 13	1919	343	1030
1908	452	Charter, art. 13, § 13	1921	542	1668
1910	586	Hospital commission. All repealed	1920	581	1482
1917	445	Tuberculosis dispensary and open air school. All repealed	1920	581	1482
Young Ladies' Christian Association of the City of New York:					
1873	319	Charter, § 3a, added	1922	262	620

STATEMENT OF OPTIONAL CITY CHARTERS ADOPTED¹

STATEMENT OF OPTIONAL CITY CHARTERS ADOPTED

City	Plan adopted	Date of adoption
Auburn.....	(C) Limited council with appointive city manager.....	Nov. 5, 1918
Newburgh.....	(C) Limited council with appointive city manager.....	May 1, 1915
Niagara Falls.....	(C) Limited council with appointive city manager.....	Nov. 3, 1914
Watertown.....	(C) Limited council with appointive city manager.....	Nov. 2, 1915
Watervliet.....	(B) Limited council with collective supervision.....	June 10, 1919

¹" . . . It shall be the duty of the secretary of state to cause to be published separately under an appropriate heading, in the appendix of the session laws of each year, the names of the cities which have accepted any of the plans of government provided for in this act, with a statement of the plan adopted and the date of adoption, and such statement so published shall be conclusive evidence of such adoption." L. 1914, ch. 444, § 26.

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